

Enrolled House Bill 3199

Sponsored by Representatives J SMITH, CANNON, D EDWARDS, BUCKLEY; Representatives BAILEY, BARNHART, GILLIAM, GREENLICK, HARKER, JENSON, KENNEMER, NATHANSON, READ, SCHAUFLE, G SMITH, STIEGLER, VANORMAN, WITT

CHAPTER

AN ACT

Relating to state financial administration; creating new provisions; amending ORS 1.002, 21.010, 21.110, 197.830, 284.612, 291.242, 291.252, 311.701, 327.535, 401.806, 759.425 and 802.110 and section 2, chapter 132, Oregon Laws 2009 (Enrolled House Bill 2244), and sections 33 and 38, chapter _____, Oregon Laws 2009 (Enrolled House Bill 2287), and section 2, chapter _____, Oregon Laws 2009 (Enrolled House Bill 5027); and declaring an emergency.

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

ADMINISTRATIVE

SECTION 1. For the biennium beginning July 1, 2009, notwithstanding ORS 471.810, amounts to be distributed from the Oregon Liquor Control Commission Account that are attributable to a per bottle surcharge imposed by the Oregon Liquor Control Commission on June 3, 2009, shall be credited to the General Fund.

SECTION 2. ORS 291.242 is amended to read:

291.242. (1) [No] An appropriation to which the allotment system is applicable [shall] **does not** become available to any state agency for expenditure [thereby] during any allotment period until:

[(1)] (a) The agency submits to the Oregon Department of Administrative Services an estimate, in such form as the department prescribes, for [such] **the** allotment period, of the amount required for each activity to be carried on during that period; and

[(2)] (b) The estimate is approved, increased or decreased by the department and funds allotted therefor.

(2) At the time a state agency submits an estimate to the department under subsection (1)(a) of this section, the agency shall submit a copy of the estimate to the Legislative Fiscal Office. The department may not allot funds under subsection (1)(b) of this section until the agency submits a copy of the estimate to the Legislative Fiscal Office.

SECTION 3. ORS 291.252 is amended to read:

291.252. (1) The Oregon Department of Administrative Services may at any time modify or amend any allotment previously made by it, upon application of, or upon notice to, the agency concerned, but no such modification or amendment shall reduce an allotment below the amount required to meet valid obligations or commitments previously incurred against the allotted funds.

(2)(a) An agency that applies for modification or amendment of an allotment as authorized by subsection (1) of this section shall submit a copy of the application to the Legislative Fiscal Office at the same time it submits the application to the department.

(b) If the department modifies or amends an allotment upon notice to an agency as authorized by subsection (1) of this section, the department shall notify the Legislative Fiscal Office of the modification or amendment at the same time it notifies the agency.

NOTE: Sections 4 to 9 were deleted by amendment. Subsequent sections were not renumbered.

SECTION 10. ORS 311.701 is amended to read:

311.701. (1) There is established in the State Treasury the Senior Property Tax Deferral Revolving Account to be used by the Department of Revenue for the purpose of making the payments to:

(a) County tax collectors of property taxes deferred for tax years beginning on or after January 1, 1983, as required by ORS 311.676.

(b) The appropriate local officer of special assessment improvement amounts deferred on or after October 15, 1983, as required by ORS 311.730.

(c) The department for its expenses in administering the property tax and special assessment senior deferral programs.

(2) The Senior Property Tax Deferral Revolving Account may include a reserve for payment of department administrative expenses.

(3) All sums of money received by the Department of Revenue under ORS 311.666 to 311.701 as repayments of deferred property taxes or under ORS 311.702 to 311.735 as repayments of deferred special assessment improvement amounts, including the interest accrued under ORS 311.674 (3) or 311.711 (3) shall, upon receipt, be credited to the revolving account and are continuously appropriated to the department for the purposes of subsection (1) of this section.

(4) If there *[is]* **are** not sufficient *[money]* **moneys** in the revolving account to make the payments required by subsection (1) of this section, *[there is appropriated from the General Fund an amount sufficient which together with the money in the revolving account will provide an amount sufficient to make the required payments]* **and the amount appropriated from the General Fund is not sufficient when added together with the moneys in the revolving account to provide an amount sufficient to make the required payments, the State Treasurer, in the capacity of investment officer for the Oregon Investment Council, may lend to the Department of Revenue such amounts as may be necessary to make the payments. The State Treasurer may lend moneys that may be invested as provided in ORS 293.701 to 293.820. Any moneys lent under this subsection shall be repaid within five years together with interest at a rate determined by the State Treasurer and consistent with the investment standards of ORS 293.721 and 293.726.**

(5)(a) On November 30 of each year, if the amount in the revolving account exceeds the greater of 35 percent of the total amount needed to make the payments described in subsection (1) of this section for the previous property tax year or \$5 million, the department shall calculate the difference between the amount in the revolving account and the greater of an amount that equals 35 percent of the total amount needed to make the payments described in subsection (1) of this section for the previous property tax year or \$5 million.

(b) No later than February 1 of each year, the department shall transfer an amount equal to the difference described in paragraph (a) of this subsection into the Oregon Project Independence Fund established in ORS 410.422.

SECTION 11. Section 12 of this 2009 Act is added to and made a part of ORS chapter 286A.

SECTION 12. (1) The Legislative Assembly finds that the American Recovery and Reinvestment Act of 2009 (P.L. 111-5) provides that the State of Oregon may receive, allocate and reallocate the authority to issue certain kinds of state and local government bonds that qualify for tax credits, federal subsidies or exclusion of bond interest from gross income under the United States Internal Revenue Code of 1986, as amended.

(2) As described in subsections (3) to (6) of this section, state agencies and the Private Activity Bond Committee may allocate and reallocate or take any additional actions that are desirable to maximize the benefits of bonding programs created or expanded by the American Recovery and Reinvestment Act of 2009 (P.L. 111-5).

(3) The Department of Education, with the approval of the Governor, may allocate, reallocate and otherwise manage this state's qualified school construction bonding authority.

(4) The Economic and Community Development Department may allocate, reallocate and otherwise manage this state's recovery zone economic development bonding authority and this state's recovery zone facility bonding authority.

(5) The State Department of Energy may allocate, reallocate and otherwise manage this state's qualified energy conservation bonding authority.

(6) The Private Activity Bond Committee may allocate, reallocate and otherwise manage any bonding authority that is created or expanded by the American Recovery and Reinvestment Act of 2009 (P.L. 111-5) if that responsibility is not assigned to a state agency by this section, or if an agency that is assigned that responsibility requests the Private Activity Bond Committee to allocate that authority on behalf of that agency.

(7) The Department of Education, the Economic and Community Development Department, the State Department of Energy and the Private Activity Bond Committee may adopt rules to implement the provisions of this section including, but not limited to, rules prescribing:

(a) Application processes and requirements to receive a subsequent allocation or reallocation;

(b) Standards upon which an allocation or reallocation may be based; and

(c) Any conditions that must be met to receive an allocation or reallocation of the bonding authority or to receive the benefits of such bonding authority.

SECTION 13. For the biennium ending June 30, 2009, notwithstanding ORS 283.076, the amount of \$1,123,741 is transferred from the Oregon Department of Administrative Services Operating Fund to the General Fund for general governmental purposes. The transfer shall be made on or before June 30, 2009.

SECTION 14. Section 2, chapter _____, Oregon Laws 2009 (Enrolled House Bill 5027), is amended to read:

Sec. 2. For the biennium beginning July 1, 2009, expenditures by the Oregon Liquor Control Commission for liquor purchases [*and bank transaction fees*] are not limited.

SECTION 15. For the biennium beginning July 1, 2009, notwithstanding ORS 30.282 and 278.425, the amount of \$30,000,000 is transferred from the Insurance Fund to the General Fund for general governmental purposes. The transfer shall be made on July 1, 2009.

CONSUMER AND BUSINESS SERVICES

SECTION 16. ORS 759.425 is amended to read:

759.425. (1) The Public Utility Commission shall establish and implement a competitively neutral and nondiscriminatory universal service fund. **Subject to subsection (6) of this section, the commission shall use the universal service fund** to ensure basic telephone service is available at a reasonable and affordable rate. The Public Utility Commission may adopt rules to conform the universal service fund to section 254 of the federal Telecommunications Act of 1996 (Public Law 104-104), and to related rules adopted by the Federal Communications Commission, to the extent that the Public Utility Commission determines is appropriate. The commission may delay implementation for rural telecommunications carriers, as defined in the federal Act, for up to six months after the date the Federal Communications Commission adopts a cost methodology for rural carriers.

(2)(a) The Public Utility Commission shall establish the price a telecommunications utility may charge its customers for basic telephone service. The commission in its discretion shall periodically review and evaluate the status of telecommunications services in the state and designate the ser-

vices included in basic telephone service. The commission in its discretion shall periodically review and adjust as necessary the price a telecommunications utility may charge for basic telephone service.

(b) The provisions of this subsection do not apply to the basic telephone service provided by a telecommunications utility described in ORS 759.040.

(3)(a) The Public Utility Commission shall establish a benchmark for basic telephone service as necessary for the administration and distribution of the universal service fund. The universal service fund shall provide explicit support to an eligible telecommunications carrier that is equal to the difference between the cost of providing basic telephone service and the benchmark, less any explicit compensation received by the carrier from federal sources specifically targeted to recovery of local loop costs and less any explicit support received by the carrier from a federal universal service program.

(b) The commission in its discretion shall periodically review the benchmark and adjust it as necessary to reflect:

- (A) Changes in competition in the telecommunications industry;
- (B) Changes in federal universal service support; and
- (C) Other relevant factors as determined by the commission.

(c) Except for a telecommunications utility described in ORS 759.040, the commission shall seek to limit the difference between the price a telecommunications utility may charge for basic telephone service and the benchmark.

(4) Except as provided in subsections [(6)] (7) and [(7)] (8) of this section, there is imposed on the sale of all retail telecommunications services sold in this state a universal service surcharge. Unless otherwise provided by the Public Utility Commission by rule, the surcharge shall be a uniform percentage of the sale of retail telecommunications services in an amount sufficient to support the purpose of the universal service fund. The surcharge may be shown as a separate line item by all telecommunications carriers using language prescribed by the commission. A telecommunications carrier shall deposit amounts collected into the universal service fund according to a schedule adopted by the commission.

(5) The Public Utility Commission is authorized to establish a universal service fund, separate and distinct from the General Fund. The fund shall consist of all universal service surcharge moneys collected by telecommunications carriers and paid into the fund. The fund shall be used only for the purpose described in this section, and for payment of expenses incurred by the commission or a third party appointed by the commission to administer this section. All moneys in the fund are continuously appropriated to the commission to carry out the provisions of this section. Interest on moneys deposited in the fund shall accrue to the fund.

(6) In addition to the purpose specified in subsection (1) of this section, moneys in the universal service fund may be used by the Public Utility Commission to facilitate the availability of broadband at fair and reasonable rates throughout this state. The amount of moneys in the universal service fund used for this purpose may not exceed the amount the state is required to expend to receive the maximum amount of funds available from federal sources for broadband services. If in-kind services are allowed for a state's share of a mapping project, the state shall use in-kind services before expending universal service funds. The commission may use an independent contractor to perform mapping services.

[(6)] (7) For purposes of this section, "retail telecommunications service" does not include radio communications service, radio paging service, commercial mobile radio service, personal communications service or cellular communications service.

[(7)(a)] (8)(a) Notwithstanding subsection [(6)] (7) of this section, a person who primarily provides radio communications service, radio paging service, commercial mobile radio service, personal communications service or cellular communications service may request designation as an eligible telecommunications carrier by the Public Utility Commission for purposes of participation in the universal service fund.

(b) In the event a person who primarily provides radio communications service, radio paging service, commercial mobile radio service, personal communications service or cellular communications service seeks designation as an eligible telecommunications carrier for purposes of participation in the universal service fund, the person shall provide written notice to the Public Utility Commission requesting designation as an eligible telecommunications carrier within 60 days of the date the commission establishes the fund. Upon receiving notice, the commission may designate the person as an eligible telecommunications carrier for purposes of participation in the fund.

(c) A person who primarily provides radio communications service, radio paging service, commercial mobile radio service, personal communications service or cellular communications service who fails to request designation as an eligible telecommunications carrier within 60 days of the date the universal service fund is established by the Public Utility Commission may not be designated as an eligible telecommunications carrier unless the person has contributed to the fund for at least one year immediately prior to requesting designation.

[8] (9) A pay telephone provider may apply to the Public Utility Commission, on a form developed by the commission, for a refund of the universal service surcharge imposed on the provider under subsection (4) of this section for the provision of pay telephone service.

SECTION 17. The amendments to ORS 759.425 by section 16 of this 2009 Act apply to all moneys in the universal service fund, whether deposited before, on or after the effective date of this 2009 Act.

SECTION 17a. Section 2, chapter 132, Oregon Laws 2009 (Enrolled House Bill 2244), is amended to read:

Sec. 2. The amendments to ORS 432.312 by section 1 [of this 2009 Act], **chapter 132, Oregon Laws 2009 (Enrolled House Bill 2244)**, apply to death certificates [issued] **filed** on or after [the effective date of this 2009 Act] **July 1, 2009.**

ECONOMIC AND COMMUNITY DEVELOPMENT

SECTION 18. (1) The Oregon Progress Board may accept contributions of moneys and assistance from the United States Government or its agencies or from any other source, public or private, and agree to conditions placed on the moneys not inconsistent with the duties of the board.

(2) There is established in the State Treasury, separate and distinct from the General Fund, the Oregon Progress Board Fund. The fund consists of moneys received by the board under this section and such other moneys as may otherwise be made available by law. Interest earned on the fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the board and may be used only for the performance of the functions of the board.

SECTION 19. (1) The Oregon Progress Board may enter into an agreement with:

(a) Any state agency for the provision of clerical, technical and management personnel to the board to serve as the board's staff and for the provision of other administrative, operational or overhead expenses necessary to accomplish the public purposes of the board.

(b) A nongovernmental entity for the provision of administrative, operational or overhead expenses necessary to accomplish the public purposes of the board.

(2) As used in this section:

(a) "Public institution of higher education" means a community college or a state institution of higher education listed in ORS 352.002.

(b) "State agency" means any officer, board, commission, department, division or institution in the executive or administrative branch of state government or a public institution of higher education.

SECTION 20. ORS 284.612 is amended to read:

284.612. (1) The Governor shall serve as chair of the Oregon Progress Board and may appoint an executive officer for the board for a term and with such duties and powers as the board determines to be necessary or appropriate.

(2) A majority of the voting members of the board constitutes a quorum for the transaction of business.

(3) The board shall meet as the board determines necessary at times and places specified by call of the chair or a majority of the members of the board.

[(4) The Oregon Department of Administrative Services shall provide clerical, technical and management personnel to the board to serve as the board's staff.]

SECTION 21. (1) **If the Oregon Progress Board enters into an agreement with a state agency other than the Oregon Department of Administrative Services under section 19 of this 2009 Act, the Director of the Oregon Department of Administrative Services shall:**

(a) **Deliver to the state agency all records and property within the jurisdiction of the director that relate to the duties, functions and powers of the board; and**

(b) **Transfer to the state agency those employees engaged primarily in the exercise of the duties, functions and powers of the board.**

(2) **The state agency shall take possession of the records and property, and shall take charge of the employees and employ them in the exercise of the duties, functions and powers of the board, without reduction of compensation but subject to change or termination of employment or compensation as provided by law.**

(3) **The Governor shall resolve any dispute between the department and the state agency relating to transfers of records, property and employees under this section, and the Governor's decision is final.**

SECTION 22. **The unexpended balances of amounts authorized to be expended by the Oregon Department of Administrative Services for the biennium ending June 30, 2009, from revenues dedicated, continuously appropriated, appropriated or otherwise made available for the purpose of administering and enforcing the duties, functions and powers of the Oregon Progress Board are transferred to the Oregon Progress Board Fund established by section 18 of this 2009 Act.**

NOTE: Sections 23 to 32 were deleted by amendment. Subsequent sections were not renumbered.

SECTION 33. **Notwithstanding ORS 461.543 (4), for the biennium beginning July 1, 2009, the amount allocated from the Administrative Services Economic Development Fund to the Sports Lottery Account may not exceed \$9,665,082.**

SECTION 34. (1) **Notwithstanding the restrictions in ORS 285B.455, for the biennium beginning July 1, 2009, moneys in the Special Public Works Fund may be used for any purposes for which the Economic and Community Development Department may lawfully use funds.**

(2) **Notwithstanding the restrictions in ORS 285B.563, for the biennium beginning July 1, 2009, moneys in the Water Fund may be used for any purposes for which the Economic and Community Development Department may lawfully use funds.**

(3) **Nothing in this section allows the department to use lottery moneys for any purpose not permitted by the Oregon Constitution.**

SECTION 35. **Notwithstanding the restrictions in ORS 777.267, for the biennium beginning July 1, 2009, moneys in the Marine Navigation Improvement Fund shall be used by the Economic and Community Development Department for principal and interest payments on lottery revenue bonds.**

SECTION 36. **Notwithstanding ORS 461.547, for the biennium beginning July 1, 2009, the amount that would otherwise be transferred to counties under ORS 461.547 each fiscal quarter shall be reduced by \$625,000 each quarter, and that amount shall be transferred to the Administrative Services Economic Development Fund.**

SECTION 37. **Notwithstanding and in lieu of ORS 565.447, there is allocated for the biennium beginning July 1, 2009, from the Administrative Services Economic Development Fund, to the Oregon Department of Administrative Services, the amount of \$3,043,303 for the**

purpose of supporting county fairs in this state. Funds allocated under this section shall be deposited in the County Fair Account established by ORS 565.445.

JUDICIAL BRANCH

SECTION 37a. ORS 1.002 is amended to read:

1.002. (1) The Supreme Court is the highest judicial tribunal of the judicial department of government in this state. The Chief Justice of the Supreme Court is the presiding judge of the court and the administrative head of the judicial department of government in this state. The Chief Justice shall exercise administrative authority and supervision over the courts of this state consistent with applicable provisions of law and the Oregon Rules of Civil Procedure. The Chief Justice, to facilitate exercise of that administrative authority and supervision, may:

- (a) Make rules and issue orders appropriate to that exercise.
- (b) Require appropriate reports from the judges, other officers and employees of the courts of this state and municipal courts.
- (c) Pursuant to policies approved by the Judicial Conference of the State of Oregon, assign or reassign on a temporary basis all judges of the courts of this state to serve in designated locations within or without the county or judicial district for which the judge was elected.
- (d) Set staffing levels for all courts of the state operating under the Judicial Department and for all operations in the Judicial Department.
- (e) Establish time standards for disposition of cases.
- (f) Establish budgets for the Judicial Department and all courts operating under the Judicial Department.
- (g) Assign or reassign all court staff of courts operating under the Judicial Department.
- (h) Pursuant to policies approved by the Judicial Conference of the State of Oregon, establish personnel rules and policies for judges of courts operating under the Judicial Department.
- (i) Take any other action appropriate to the exercise of the powers specified in this section and other law, and appropriate to the exercise of administrative authority and supervision by the Chief Justice over the courts of this state.

(2) The Chief Justice may make rules for the use of electronic applications in the courts, including but not limited to rules relating to:

- (a) Applications based on the use of the Internet and other similar technologies;
- (b) The use of an electronic document, or use of an electronic image of a paper document in lieu of the original paper copy, for a document, process or paper that is served, delivered, received, filed, entered or retained in any action or proceeding;
- (c) The use of electronic signatures or another form of identification for any document, process or paper that is served, delivered, received, filed, entered or retained in any action or proceeding and that is required by any law or rule to be signed;
- (d) The use of electronic transmission for the service of documents in a proceeding, other than service of a summons or service of an initial complaint or petition;
- (e) Payment of statutory or court-ordered monetary obligations through electronic media;
- (f) Electronic storage of court documents;
- (g) Use of electronic citations in lieu of the paper citation forms as allowed under ORS 153.770, including use of electronic citations for parking ordinance violations that are subject to ORS 221.333 or 810.425;
- (h) Public access through electronic means to court documents that are required or authorized to be made available to the public by law; and
- (i) Transmission of open court proceedings through electronic media.

(3) Rules adopted by the Chief Justice under subsection (2) of this section must be consistent with the laws governing courts and court procedures, but any person who serves, delivers, receives, files, enters or retains an electronic document, or an electronic image of a paper document in lieu of the original paper copy, in the manner provided by a rule of the Chief Justice under subsection

(2) of this section shall be considered to have complied with any rule or law governing service, delivery, reception, filing, entry or retention of a paper document.

(4) Rules made and orders issued by the Chief Justice under this section shall permit as much variation and flexibility in the administration of the courts of this state as are appropriate to the most efficient manner of administering each court, considering the particular needs and circumstances of the court, and consistent with the sound and efficient administration of the judicial department of government in this state.

(5) The Chief Justice may establish fees for the use of the Oregon Judicial Information Network.

[(5)] (6) The judges, other officers and employees of the courts of this state shall comply with rules made and orders issued by the Chief Justice. Rules and orders of a court of this state, or a judge thereof, relating to the conduct of the business of the court shall be consistent with applicable rules made and orders issued by the Chief Justice.

[(6)] (7) The Chief Judge of the Court of Appeals and the presiding judge of each judicial district of this state are the administrative heads of their respective courts. They are responsible and accountable to the Chief Justice of the Supreme Court in the exercise of their administrative authority and supervision over their respective courts. Other judges of the Court of Appeals or court under a presiding judge are responsible and accountable to the Chief Judge or presiding judge, and to the Chief Justice, in respect to exercise by the Chief Justice, Chief Judge or presiding judge of administrative authority and supervision.

[(7)] (8) The Chief Justice may delegate the exercise of any of the powers specified by this section to the presiding judge of a court, and may delegate the exercise of any of the administrative powers specified by this section to the State Court Administrator, as may be appropriate.

[(8)] (9) This section applies to justices of the peace and the justice courts of this state solely for the purpose of disciplining of justices of the peace and for the purpose of continuing legal education of justices of the peace.

SECTION 37b. If House Bill 2287 becomes law, ORS 21.110, as amended by section 14, chapter _____, Oregon Laws 2009 (Enrolled House Bill 2287), is amended to read:

21.110. (1)(a) Except as otherwise provided in this section, at the time of filing in the circuit court of any civil action, suit or proceeding, including appeals, the clerk of the circuit court shall collect from the plaintiff, appellant or moving party the sum of \$117 as the flat and uniform filing fee for a single party. In addition, at the time of filing any appearance in any such action, suit or proceeding by any defendant or respondent appearing separately, or upon the part of defendants or respondents appearing jointly, the clerk shall collect from the party or parties the sum of \$117 as the flat and uniform filing fee for a single party.

(b) Except as otherwise provided in this section, at the time of filing in the circuit court of any civil action, suit or proceeding, including appeals, the clerk of the circuit court shall collect from the plaintiff, appellant or moving party the sum of \$117 for each additional party named in the pleading. In addition, at the time of filing any appearance in any such action, suit or proceeding by any defendant or respondent appearing separately, or upon the part of defendants or respondents appearing jointly, the clerk shall collect from the party or parties the sum of \$117 for each additional party named in the pleading. **The Chief Justice by order may provide for exemptions from the fees established by this paragraph if exemptions are needed for the equitable imposition of those fees.**

(2) In the following actions, the clerk of the circuit court shall collect the sum of \$78 as a flat and uniform filing fee from the plaintiff, appellant or moving party at the time the action is filed, and shall collect the sum of \$78 as a flat and uniform filing fee from any defendant or respondent appearing separately, or upon the part of defendants or respondents appearing jointly, at the time of filing any appearance in the action:

(a) Actions for the recovery of money or damages only when the amount claimed does not exceed \$10,000.

(b) Actions for the recovery of specific personal property when the value of the property claimed and the damages for the detention do not exceed \$10,000.

(c) Actions for the recovery of any penalty or forfeiture, whether given by statute or arising out of contract, not exceeding \$10,000.

(d) Actions to enforce, marshal and foreclose liens upon personal property where the amount claimed for such liens does not exceed \$10,000.

(e) Actions of interpleader, and in the nature of interpleader, when the amount of money or the value of the property involved does not exceed \$10,000.

(f) Actions for injunctive relief under ORS chapter 90 when the amount of any damages claimed does not exceed \$10,000.

(3) In any action for the recovery of money or damages, the clerk of the circuit court shall collect the following sums from the plaintiff at the time the action is filed, and shall collect the following sums from any defendant or respondent appearing separately, or upon the part of defendants or respondents appearing jointly, at the time of filing any appearance in the action:

(a) If the amount claimed is \$50,000 or more, and less than \$150,000, the clerk of the circuit court shall collect a fee of \$225.

(b) If the amount claimed is \$150,000 or more, and less than \$500,000, the clerk of the circuit court shall collect a fee of \$275.

(c) If the amount claimed is \$500,000 or more, and less than \$1 million, the clerk of the circuit court shall collect a fee of \$325.

(d) If the amount claimed is \$1 million or more, the clerk of the circuit court shall collect a fee of \$375.

(4) The clerk of the court shall collect the sum of \$300 as a flat and uniform filing fee from the petitioner in a proceeding under ORS 181.823 or 181.826, at the time the petition is filed. Fees collected under this subsection shall be deposited into the Judicial Department Operating Account established in ORS 1.009.

(5) For purposes of this section, the amount claimed, value of property, damages or any amount in controversy does not include any amount claimed as costs and disbursements or attorney fees as defined by ORCP 68 A.

(6) A pleading or other document shall be filed by the clerk only if the fee required under this section is paid by the person filing the document, or if a request for a fee waiver or deferral is granted by the court. No part of any such filing fee shall be refunded to any party. The uniform fee shall cover all services to be performed by the court or clerk in any such action, suit or proceeding, except where additional fees are specially authorized by law.

(7) Any plaintiff, appellant, moving party, defendant or respondent that files an action or appearance that is subject to the filing fees established under subsection (2) or (3) of this section must include in the caption of the pleading a statement of the amount claimed.

(8) The fees imposed by this section do not apply to:

(a) Protective proceedings under ORS chapter 125;

(b) Proceedings for dissolution of marriage, annulment of marriage or separation;

(c) Filiation proceedings under ORS 109.124 to 109.230;

(d) Proceedings to determine custody or support of a child under ORS 109.103;

(e) Probate, adoption or change of name proceedings;

(f) Proceedings involving dwelling units to which ORS chapter 90 applies and for which the fee is provided by ORS 105.130; or

(g) Any counterclaim, cross-claim or third-party claim filed by a party who has appeared in the action or proceeding.

(9) The fees described in this section shall not be charged to a district attorney or to the Division of Child Support of the Department of Justice for the filing of any case, motion, document, stipulated order, process or other document relating to the provision of support enforcement services as described in ORS 25.080.

SECTION 37c. If House Bill 2287 becomes law, ORS 21.110, as amended by section 14, chapter _____, Oregon Laws 2009 (Enrolled House Bill 2287), and section 37b of this 2009 Act, is amended to read:

21.110. (1)(a) Except as otherwise provided in this section, at the time of filing in the circuit court of any civil action, suit or proceeding, including appeals, the clerk of the circuit court shall collect from the plaintiff, appellant or moving party the sum of \$117 as the flat and uniform filing fee for a single party. In addition, at the time of filing any appearance in any such action, suit or proceeding by any defendant or respondent appearing separately, or upon the part of defendants or respondents appearing jointly, the clerk shall collect from the party or parties the sum of \$117 as the flat and uniform filing fee for a single party.

(b) Except as otherwise provided in this section, at the time of filing in the circuit court of any civil action, suit or proceeding, including appeals, the clerk of the circuit court shall collect from the plaintiff, appellant or moving party the sum of \$117 for each additional party named in the pleading. In addition, at the time of filing any appearance in any such action, suit or proceeding by any defendant or respondent appearing separately, or upon the part of defendants or respondents appearing jointly, the clerk shall collect from the party or parties the sum of \$117 for each additional party named in the pleading. *[The Chief Justice by order may provide for exemptions from the fees established by this paragraph if exemptions are needed for the equitable imposition of those fees.]*

(2) In the following actions, the clerk of the circuit court shall collect the sum of \$78 as a flat and uniform filing fee from the plaintiff, appellant or moving party at the time the action is filed, and shall collect the sum of \$78 as a flat and uniform filing fee from any defendant or respondent appearing separately, or upon the part of defendants or respondents appearing jointly, at the time of filing any appearance in the action:

(a) Actions for the recovery of money or damages only when the amount claimed does not exceed \$10,000.

(b) Actions for the recovery of specific personal property when the value of the property claimed and the damages for the detention do not exceed \$10,000.

(c) Actions for the recovery of any penalty or forfeiture, whether given by statute or arising out of contract, not exceeding \$10,000.

(d) Actions to enforce, marshal and foreclose liens upon personal property where the amount claimed for such liens does not exceed \$10,000.

(e) Actions of interpleader, and in the nature of interpleader, when the amount of money or the value of the property involved does not exceed \$10,000.

(f) Actions for injunctive relief under ORS chapter 90 when the amount of any damages claimed does not exceed \$10,000.

(3) In any action for the recovery of money or damages, the clerk of the circuit court shall collect the following sums from the plaintiff at the time the action is filed, and shall collect the following sums from any defendant or respondent appearing separately, or upon the part of defendants or respondents appearing jointly, at the time of filing any appearance in the action:

(a) If the amount claimed is \$50,000 or more, and less than \$150,000, the clerk of the circuit court shall collect a fee of \$225.

(b) If the amount claimed is \$150,000 or more, and less than \$500,000, the clerk of the circuit court shall collect a fee of \$275.

(c) If the amount claimed is \$500,000 or more, and less than \$1 million, the clerk of the circuit court shall collect a fee of \$325.

(d) If the amount claimed is \$1 million or more, the clerk of the circuit court shall collect a fee of \$375.

(4) The clerk of the court shall collect the sum of \$300 as a flat and uniform filing fee from the petitioner in a proceeding under ORS 181.823 or 181.826, at the time the petition is filed. Fees collected under this subsection shall be deposited into the Judicial Department Operating Account established in ORS 1.009.

(5) For purposes of this section, the amount claimed, value of property, damages or any amount in controversy does not include any amount claimed as costs and disbursements or attorney fees as defined by ORCP 68 A.

(6) A pleading or other document shall be filed by the clerk only if the fee required under this section is paid by the person filing the document, or if a request for a fee waiver or deferral is granted by the court. No part of any such filing fee shall be refunded to any party. The uniform fee shall cover all services to be performed by the court or clerk in any such action, suit or proceeding, except where additional fees are specially authorized by law.

(7) Any plaintiff, appellant, moving party, defendant or respondent that files an action or appearance that is subject to the filing fees established under subsection (2) or (3) of this section must include in the caption of the pleading a statement of the amount claimed.

(8) The fees imposed by this section do not apply to:

- (a) Protective proceedings under ORS chapter 125;
- (b) Proceedings for dissolution of marriage, annulment of marriage or separation;
- (c) Filiation proceedings under ORS 109.124 to 109.230;
- (d) Proceedings to determine custody or support of a child under ORS 109.103;
- (e) Probate, adoption or change of name proceedings;
- (f) Proceedings involving dwelling units to which ORS chapter 90 applies and for which the fee is provided by ORS 105.130; or

(g) Any counterclaim, cross-claim or third-party claim filed by a party who has appeared in the action or proceeding.

(9) The fees described in this section shall not be charged to a district attorney or to the Division of Child Support of the Department of Justice for the filing of any case, motion, document, stipulated order, process or other document relating to the provision of support enforcement services as described in ORS 25.080.

SECTION 37d. The amendments to ORS 21.110 by section 37c of this 2009 Act become operative July 1, 2011.

SECTION 37e. If House Bill 2287 becomes law, ORS 21.010, as amended by section 28, chapter _____, Oregon Laws 2009 (Enrolled House Bill 2287), is amended to read:

21.010. (1) Except as provided in this section, the appellant in an appeal or the petitioner in a judicial review in the Supreme Court or the Court of Appeals shall pay a filing fee of \$154 in the manner prescribed by ORS 19.265. The respondent in such case and any other person appearing in the appeal, upon entering first appearance or filing first brief in the court, shall pay to the State Court Administrator the sum of \$154. The party entitled to costs and disbursements on such appeal shall recover from the opponent the amount so paid.

(2) Except as provided in this section, the appellant in an appeal or the petitioner in a judicial review in the Supreme Court or the Court of Appeals shall pay \$154 for each additional person named as an appellant or petitioner. The respondent in such case, and any other person appearing in the appeal, shall pay \$154 to the State Court Administrator for each additional person named as a respondent. The party entitled to costs and disbursements on such appeal shall recover from the opponent the amount so paid. **The Chief Justice by order may provide for exemptions from the fees established by this subsection if exemptions are needed for the equitable imposition of those fees.**

(3) Filing and appearance fees may not be assessed in appeals from habeas corpus proceedings under ORS 34.710, post-conviction relief proceedings under ORS 138.650, juvenile court under ORS 419A.200 and the involuntary commitment of persons determined to be mentally ill under ORS 426.135 or persons determined to be mentally retarded under ORS 427.295, or on judicial review of orders of the Psychiatric Security Review Board under ORS 161.385 (9) or orders of the State Board of Parole and Post-Prison Supervision.

(4) Filing and appearance fees shall be assessed in an appeal from an appeal to a circuit court from a justice court or municipal court in an action alleging commission of a state offense desig-

nated as a violation or an action alleging violation of a city charter or ordinance, but not in an action alleging commission of a state crime.

(5) Filing and appearance fees shall only be assessed in an appeal in a contempt proceeding seeking imposition of remedial sanctions under the provisions of ORS 33.055.

SECTION 37f. If House Bill 2287 becomes law, ORS 21.010, as amended by section 28, chapter _____, Oregon Laws 2009 (Enrolled House Bill 2287), and section 37e of this 2009 Act, is amended to read:

21.010. (1) Except as provided in this section, the appellant in an appeal or the petitioner in a judicial review in the Supreme Court or the Court of Appeals shall pay a filing fee of \$154 in the manner prescribed by ORS 19.265. The respondent in such case and any other person appearing in the appeal, upon entering first appearance or filing first brief in the court, shall pay to the State Court Administrator the sum of \$154. The party entitled to costs and disbursements on such appeal shall recover from the opponent the amount so paid.

(2) Except as provided in this section, the appellant in an appeal or the petitioner in a judicial review in the Supreme Court or the Court of Appeals shall pay \$154 for each additional person named as an appellant or petitioner. The respondent in such case, and any other person appearing in the appeal, shall pay \$154 to the State Court Administrator for each additional person named as a respondent. The party entitled to costs and disbursements on such appeal shall recover from the opponent the amount so paid. [*The Chief Justice by order may provide for exemptions from the fees established by this subsection if exemptions are needed for the equitable imposition of those fees.*]

(3) Filing and appearance fees may not be assessed in appeals from habeas corpus proceedings under ORS 34.710, post-conviction relief proceedings under ORS 138.650, juvenile court under ORS 419A.200 and the involuntary commitment of persons determined to be mentally ill under ORS 426.135 or persons determined to be mentally retarded under ORS 427.295, or on judicial review of orders of the Psychiatric Security Review Board under ORS 161.385 (9) or orders of the State Board of Parole and Post-Prison Supervision.

(4) Filing and appearance fees shall be assessed in an appeal from an appeal to a circuit court from a justice court or municipal court in an action alleging commission of a state offense designated as a violation or an action alleging violation of a city charter or ordinance, but not in an action alleging commission of a state crime.

(5) Filing and appearance fees shall only be assessed in an appeal in a contempt proceeding seeking imposition of remedial sanctions under the provisions of ORS 33.055.

SECTION 37g. The amendments to ORS 21.010 by section 37f of this 2009 Act become operative July 1, 2011.

SECTION 37h. If House Bill 2287 becomes law, section 38, chapter _____, Oregon Laws 2009 (Enrolled House Bill 2287), is amended to read:

Sec. 38. (1) In any civil proceeding subject to a fee under ORS 21.110, 21.111, 21.114 or 21.310, the clerk of a circuit court shall collect the sum of \$10 for filing or submission of an ex parte order or judgment for the purpose of signature by the judge and entry.

(2) The fee established under this section may not be collected for filings or submissions in small claims actions. **The Chief Justice by order may provide for exemptions from the fees established by this section if exemptions are needed for the equitable imposition of those fees.**

(3) The fee imposed under this section applies only to ex parte orders or judgments filed or submitted on or after October 1, 2009, and before July 1, 2011.

(4) All fees imposed under this section shall be deposited in the Judicial System Surcharge Account.

(5) The collections and revenue management program established under ORS 1.204 may not be reimbursed under ORS 1.204 from fees imposed under this section.

SECTION 37i. If House Bill 2287 becomes law, section 33, chapter _____, Oregon Laws 2009 (Enrolled House Bill 2287), is amended to read:

Sec. 33. (1) In any [*proceeding in the Court of Appeals or Supreme Court*] **appeal or petition for review subject to a fee under ORS 21.010**, the clerk of the court shall collect a fee of \$50 from

any party filing a motion for continuance or a motion for an extension of time for the filing of a brief or other document in the proceeding.

(2) The fee imposed under this section applies only to motions filed on or after October 1, 2009, and before July 1, 2011.

(3) All fees imposed under this section shall be deposited in the Judicial System Surcharge Account.

(4) The collections and revenue management program established under ORS 1.204 may not be reimbursed under ORS 1.204 from fees imposed under this section.

NATURAL RESOURCES

SECTION 38. ORS 197.830 is amended to read:

197.830. (1) Review of land use decisions or limited land use decisions under ORS 197.830 to 197.845 shall be commenced by filing a notice of intent to appeal with the Land Use Board of Appeals.

(2) Except as provided in ORS 197.620 (1) and (2), a person may petition the board for review of a land use decision or limited land use decision if the person:

(a) Filed a notice of intent to appeal the decision as provided in subsection (1) of this section; and

(b) Appeared before the local government, special district or state agency orally or in writing.

(3) If a local government makes a land use decision without providing a hearing, except as provided under ORS 215.416 (11) or 227.175 (10), or the local government makes a land use decision that is different from the proposal described in the notice of hearing to such a degree that the notice of the proposed action did not reasonably describe the local government's final actions, a person adversely affected by the decision may appeal the decision to the board under this section:

(a) Within 21 days of actual notice where notice is required; or

(b) Within 21 days of the date a person knew or should have known of the decision where no notice is required.

(4) If a local government makes a land use decision without a hearing pursuant to ORS 215.416 (11) or 227.175 (10):

(a) A person who was not provided mailed notice of the decision as required under ORS 215.416 (11)(c) or 227.175 (10)(c) may appeal the decision to the board under this section within 21 days of receiving actual notice of the decision.

(b) A person who is not entitled to notice under ORS 215.416 (11)(c) or 227.175 (10)(c) but who is adversely affected or aggrieved by the decision may appeal the decision to the board under this section within 21 days after the expiration of the period for filing a local appeal of the decision established by the local government under ORS 215.416 (11)(a) or 227.175 (10)(a).

(c) A person who receives mailed notice of a decision made without a hearing under ORS 215.416 (11) or 227.175 (10) may appeal the decision to the board under this section within 21 days of receiving actual notice of the nature of the decision, if the mailed notice of the decision did not reasonably describe the nature of the decision.

(d) Except as provided in paragraph (c) of this subsection, a person who receives mailed notice of a decision made without a hearing under ORS 215.416 (11) or 227.175 (10) may not appeal the decision to the board under this section.

(5) If a local government makes a limited land use decision which is different from the proposal described in the notice to such a degree that the notice of the proposed action did not reasonably describe the local government's final actions, a person adversely affected by the decision may appeal the decision to the board under this section:

(a) Within 21 days of actual notice where notice is required; or

(b) Within 21 days of the date a person knew or should have known of the decision where no notice is required.

(6)(a) Except as provided in paragraph (b) of this subsection, the appeal periods described in subsections (3), (4) and (5) of this section shall not exceed three years after the date of the decision.

(b) If notice of a hearing or an administrative decision made pursuant to ORS 197.195 or 197.763 is required but has not been provided, the provisions of paragraph (a) of this subsection do not apply.

(7)(a) Within 21 days after a notice of intent to appeal has been filed with the board under subsection (1) of this section, any person **described in paragraph (b) of this subsection** may intervene in and be made a party to the review proceeding [*upon a showing of compliance with subsection (2) of this section*] **by filing a motion to intervene and by paying a filing fee of \$100.**

(b) [*Notwithstanding the provisions of paragraph (a) of this subsection,*] Persons who may intervene in and be made a party to the review proceedings, as set forth in subsection (1) of this section, are:

(A) The applicant who initiated the action before the local government, special district or state agency; or

(B) Persons who appeared before the local government, special district or state agency, orally or in writing.

(c) Failure to comply with the deadline **or to pay the filing fee** set forth in paragraph (a) of this subsection shall result in denial of a motion to intervene.

(8) If a state agency whose order, rule, ruling, policy or other action is at issue is not a party to the proceeding, it may file a brief with the board as if it were a party. The brief shall be due on the same date the respondent's brief is due **and shall be accompanied by a filing fee of \$100.**

(9) A notice of intent to appeal a land use decision or limited land use decision shall be filed not later than 21 days after the date the decision sought to be reviewed becomes final. A notice of intent to appeal plan and land use regulation amendments processed pursuant to ORS 197.610 to 197.625 shall be filed not later than 21 days after notice of the decision sought to be reviewed is mailed or otherwise submitted to parties entitled to notice under ORS 197.615. Failure to include a certificate of mailing with the notice mailed under ORS 197.615 shall not render the notice defective. Copies of the notice of intent to appeal shall be served upon the local government, special district or state agency and the applicant of record, if any, in the local government, special district or state agency proceeding. The notice shall be served and filed in the form and manner prescribed by rule of the board and shall be accompanied by a filing fee of [~~\$175~~] **\$200** and a deposit for costs to be established by the board. If a petition for review is not filed with the board as required in subsections (10) and (11) of this section, the filing fee and deposit shall be awarded to the local government, special district or state agency as cost of preparation of the record.

(10)(a) Within 21 days after service of the notice of intent to appeal, the local government, special district or state agency shall transmit to the board the original or a certified copy of the entire record of the proceeding under review. By stipulation of all parties to the review proceeding the record may be shortened. The board may require or permit subsequent corrections to the record; however, the board shall issue an order on a motion objecting to the record within 60 days of receiving the motion.

(b) Within 10 days after service of a notice of intent to appeal, the board shall provide notice to the petitioner and the respondent of their option to enter into mediation pursuant to ORS 197.860. Any person moving to intervene shall be provided such notice within seven days after a motion to intervene is filed. The notice required by this paragraph shall be accompanied by a statement that mediation information or assistance may be obtained from the Department of Land Conservation and Development.

(11) A petition for review of the land use decision or limited land use decision and supporting brief shall be filed with the board as required by the board under subsection (13) of this section.

(12) The petition shall include a copy of the decision sought to be reviewed and shall state:

(a) The facts that establish that the petitioner has standing.

(b) The date of the decision.

(c) The issues the petitioner seeks to have reviewed.

(13)(a) The board shall adopt rules establishing deadlines for filing petitions and briefs and for oral argument.

(b) At any time subsequent to the filing of a notice of intent and prior to the date set for filing the record, or, on appeal of a decision under ORS 197.610 to 197.625, prior to the filing of the respondent's brief, the local government or state agency may withdraw its decision for purposes of reconsideration. If a local government or state agency withdraws an order for purposes of reconsideration, it shall, within such time as the board may allow, affirm, modify or reverse its decision. If the petitioner is dissatisfied with the local government or agency action after withdrawal for purposes of reconsideration, the petitioner may refile the notice of intent and the review shall proceed upon the revised order. An amended notice of intent shall not be required if the local government or state agency, on reconsideration, affirms the order or modifies the order with only minor changes.

(14) The board shall issue a final order within 77 days after the date of transmittal of the record. If the order is not issued within 77 days the applicant may apply in Marion County or the circuit court of the county where the application was filed for a writ of mandamus to compel the board to issue a final order.

(15)(a) Upon entry of its final order the board may, in its discretion, award costs to the prevailing party including the cost of preparation of the record if the prevailing party is the local government, special district or state agency whose decision is under review. The deposit required by subsection (9) of this section shall be applied to any costs charged against the petitioner.

(b) The board shall also award reasonable attorney fees and expenses to the prevailing party against any other party who the board finds presented a position without probable cause to believe the position was well-founded in law or on factually supported information.

(16) Orders issued under this section may be enforced in appropriate judicial proceedings.

(17)(a) The board shall provide for the publication of its orders that are of general public interest in the form it deems best adapted for public convenience. The publications shall constitute the official reports of the board.

(b) Any moneys collected or received from sales by the board shall be paid into the Board Publications Account established by ORS 197.832.

(18) Except for any sums collected for publication of board opinions, all fees collected by the board under this section that are not awarded as costs shall be paid over to the State Treasurer to be credited to the General Fund.

SECTION 39. The amendments to ORS 197.830 by section 38 of this 2009 Act apply to appeals filed on or after the effective date of this 2009 Act.

SECTION 40. For the biennium beginning July 1, 2009, notwithstanding ORS 541.750, 541.830 and 541.840, from moneys paid into the Water Development Administration and Bond Sinking Fund under ORS 541.750, the amount of \$300,000 is transferred from the Water Development Administration and Bond Sinking Fund to the General Fund for general governmental purposes. The transfer shall be made on July 1, 2009.

SECTION 40a. If House Bill 3369 does not become law, then notwithstanding sections 8 and 9, chapter _____, Oregon Laws 2009 (Enrolled Senate Bill 5535), the State Treasurer may not issue lottery bonds for the Water Resources Department or the Water Resources Commission.

SECTION 41. For the biennium beginning July 1, 2009, notwithstanding ORS 273.105 and 327.410, the amount of \$664,952 of unexpended moneys remaining from the 2006 settlement agreement for removal of the New Carissa from the territorial sea is transferred from the Distributable Income Account to the General Fund for general governmental purposes. The transfer shall be made on July 1, 2009.

PUBLIC SAFETY

SECTION 42. For the biennium beginning July 1, 2009, notwithstanding ORS 180.095, the amount of \$2,000,000 is transferred from the Consumer Protection and Education Revolving Account to the General Fund for general governmental purposes. The transfer shall be made on July 1, 2009.

SECTION 43. Section 44 of this 2009 Act is added to and made a part of ORS 181.610 to 181.712.

SECTION 44. Notwithstanding any contrary provision of ORS 181.610 to 181.712:

(1) The Department of Corrections shall provide training for basic certification of corrections officers employed by the Department of Corrections.

(2) The Department of Corrections shall develop proposed training standards for the basic certification of corrections officers employed by the Department of Corrections and provide the proposed standards to the Corrections Policy Committee. After reviewing the proposed standards provided by the Department of Corrections, the Corrections Policy Committee shall recommend, and the Board on Public Safety Standards and Training shall adopt by rule, minimum training standards for basic certification of corrections officers employed by the Department of Corrections. The minimum training standards adopted under this subsection must meet or exceed the minimum training standards for the basic certification of corrections officers employed by a law enforcement unit other than the Department of Corrections.

(3) The Department of Public Safety Standards and Training shall conduct periodic audits of the training provided by the Department of Corrections to ensure compliance with the standards adopted under subsection (2) of this section. If the Department of Public Safety Standards and Training finds that the training complies with the standards, the department shall accredit the training for the same term and upon the same conditions as training programs for corrections officers that are employed by a law enforcement unit other than the Department of Corrections.

(4) Training provided in accordance with this section constitutes training necessary for certification as a corrections officer under ORS 181.610 to 181.712.

(5) Nothing in this section limits the ability of any law enforcement unit to employ a corrections officer who is provided training in accordance with this section.

NOTE: Section 45 was deleted by amendment. Subsequent sections were not renumbered.

SECTION 46. No later than March 1, 2011, the Department of Public Safety Standards and Training shall report to the Legislative Assembly in the manner provided in ORS 192.245 on the efficacy of the training described in section 44 of this 2009 Act.

NOTE: Section 46a was deleted by amendment. Subsequent sections were not renumbered.

SECTION 46b. (1) Section 44 of this 2009 Act applies to corrections officers hired by the Department of Corrections on or after the effective date of this 2009 Act and before January 2, 2014.

(2) Nothing in the repeal of section 44 of this 2009 Act by section 46d of this 2009 Act:

(a) Prohibits the Department of Corrections from completing the basic training of corrections officers who are hired on or after the effective date of this 2009 Act and before January 2, 2014.

(b) Affects the certification, or the eligibility for certification, of a corrections officer who is provided basic training by the Department of Corrections in accordance with section 44 of this 2009 Act.

NOTE: Section 46c was deleted by amendment. Subsequent sections were not renumbered.

SECTION 46d. Sections 43, 44 and 46 of this 2009 Act are repealed on January 2, 2014.

SECTION 47. ORS 401.806 is amended to read:

401.806. (1) The Emergency Communications Account is established separate and distinct from the General Fund in the State Treasury. All moneys received by the Department of Revenue pursuant to ORS 401.792 to 401.804 and interest thereon shall be paid to the State Treasurer to be held in a suspense account established under ORS 293.445. After payment of refunds, the balance of the

moneys received shall be paid into the State Treasury and credited to the Emergency Communications Account. *[All earnings on investment of moneys in the Emergency Communications Account shall accrue to that account.]* All moneys in the account are *[appropriated]* continuously **appropriated** to the Office of Emergency Management and shall be used for the purposes described in ORS 401.808.

(2) The Enhanced 9-1-1 Subaccount is established as a subaccount of the Emergency Communications Account. Thirty-five percent of the amount in the Emergency Communications Account on the date of distribution shall be credited to the Enhanced 9-1-1 Subaccount. All moneys in the account are continuously appropriated to the Office of Emergency Management and shall be used for the purposes described in ORS 401.808 (3), (4) and (5).

(3) The Enhanced 9-1-1 Equipment Replacement Subaccount is established as a subaccount of the Emergency Communications Account. Two and one-half percent of the amount in the Emergency Communications Account shall be credited to the Enhanced 9-1-1 Equipment Replacement Subaccount. All moneys in the account are continuously appropriated to the Office of Emergency Management and shall be used for the purposes described in ORS 401.808 (7).

TRANSPORTATION

SECTION 48. ORS 802.110 is amended to read:

802.110. Any procedures the Department of Transportation establishes for financial administration of those functions of the department dealing with driver and motor vehicle services and for the disposition and payment of moneys it receives from the provision of driver and motor vehicle services shall comply with all of the following:

(1) The department shall deposit all moneys it receives related to driver and motor vehicle services in the Department of Transportation Driver and Motor Vehicle Suspense Account for approved expenses and disbursements before payment of general administrative expenses of the department related to the provision of driver and motor vehicle services. Notwithstanding this subsection, the department may return a bank check or money order when received in incorrect or incomplete form or when not accompanied by the proper application.

(2) The department shall pay the following approved expenses and disbursements from the Department of Transportation Driver and Motor Vehicle Suspense Account before payment of the general administrative expenses of the department related to driver and motor vehicle services:

(a) Refunds authorized by any statute administered by the department when such refunds are approved by the department.

(b) Amounts transferred to the State Treasurer under ORS 319.410 (2) for the purpose of carrying out the state aviation laws, amounts transferred to the Boating Safety, Law Enforcement and Facility Account by ORS 319.415, amounts transferred to the State Aviation Account by ORS 319.417 and amounts transferred to the Department of Transportation Operating Fund by ORS 184.643.

(c) After deduction of expenses of collection, transfer and administration, the department shall pay moneys collected from the Student Driver Training Fund eligibility fee under ORS 807.040, 807.150 and 807.370 to the State Treasurer for deposit in the Student Driver Training Fund. The moneys deposited in the Student Driver Training Fund under this paragraph are continuously appropriated to the department for the following purposes:

(A) To the extent of not more than 10 percent of the amount transferred into the Student Driver Training Fund in any biennium, to pay the expenses of administering ORS 336.795, 336.800, 336.805, 336.810 (2) and 336.815.

(B) The remaining moneys, for reimbursing school districts as provided under ORS 336.805.

(d) After deduction of expenses of collection, transfer and administration, the department shall pay moneys collected for the Motorcycle Safety Subaccount under ORS 807.170 to the State Treasurer for deposit in the Motorcycle Safety Subaccount of the Transportation Safety Account. Moneys paid to the State Treasurer under this paragraph shall be used for the purpose of ORS 802.320.

(e) After deduction of expenses for the administration of the issuance of customized registration plates under ORS 805.240, the department shall place moneys received from the sale of customized registration plates in the Passenger Rail Transportation Account. The moneys placed in the account are continuously appropriated to the department and shall be used for the payment of expenses incurred in administering passenger rail programs.

(f) After deduction of expenses of collection, transfer and administration, the department shall pay moneys from any registration fees established by the governing bodies of counties or a district, as defined in ORS 801.237, under ORS 801.041 or 801.042 to the appropriate counties or districts. The department shall make the payments on at least a monthly basis unless another basis is established by the intergovernmental agreements required by ORS 801.041 and 801.042 between the department and the governing bodies of a county or a district.

(g) After deducting the expenses of the department in collecting and transferring the moneys, the department shall make disbursements and payments of moneys collected for or dedicated to any other purpose or fund except the State Highway Fund, including but not limited to, payments to the Department of Transportation Operating Fund established by ORS 184.642 (1) and (2).

(3) The department shall refund from the Department of Transportation Driver and Motor Vehicle Suspense Account any excess or erroneous payment to a person who made the payment or to the person's legal representative when the department determines that money has been received by it in excess of the amount legally due and payable or that it has received money in which it has no legal interest. Refunds payable under this subsection are continuously appropriated for such purposes in the manner for payment of refunds under this section. If the department determines that a refund is due, the department may refund the amount of excess or erroneous payment without a claim being filed. Except as provided in ORS 319.290, 319.375, 319.820 and 319.831, any claim for a refund from the department must be filed within 12 months after the date payment is received by the department.

(4) After payment of those expenses and disbursements approved for payment before general administrative expenses related to the provision of driver and motor vehicle services, the department shall pay from the Department of Transportation Driver and Motor Vehicle Services Administrative Account its general administrative expenses incurred in the administration of any law related to driver and motor vehicle services that the department is charged with administering and any other expenses the department is permitted by law to pay from moneys held by the department before transfer of the moneys to the State Highway Fund. The following limitations apply to payments of administrative expenses under this subsection:

(a) The department shall make payment of the expenses of administering the issuance of winter recreation parking permits under ORS 811.595 from those moneys received from issuing the permits or from moneys received under ORS 153.630 from violation of the requirement to have the permit.

(b) The department shall pay its expenses for administering the registration and titling of snowmobiles under ORS 821.060 and 821.100 from the fees collected from administering those sections. The department shall also pay its expenses for the administration of the snowmobile driver permit program under ORS 821.160 from the moneys otherwise described in this paragraph.

(c) The department shall pay its expenses for determining the amount of money to be withheld under ORS 802.120 from the fees collected for administering the registration and titling of snowmobiles. The amount used to pay expenses under this paragraph shall be such sum as necessary but shall not exceed \$10,000 during each biennium.

(d) The department shall retain not more than \$15,000 in any biennium for the expenses of collecting and transferring moneys to the Student Driver Training Fund under this section and for the administration of ORS 336.810 (3).

(5) Except as otherwise provided in this subsection, the department shall transfer to the State Highway Fund the moneys not used for payment of the general administrative expenses or for approved expenses and disbursements before payment of general administrative expenses. The following apply to this subsection:

(a) If the Director of Transportation certifies the amount of principal or interest of highway bonds due on any particular date, the department may make available for the payment of such interest or principal any sums that may be necessary to the extent of moneys on hand available for the State Highway Fund regardless of the dates otherwise specified under this section.

(b) Notwithstanding paragraph (a) of this subsection the department shall not make available for purposes described in paragraph (a) of this subsection any moneys described in ORS 367.605 when there are not sufficient amounts of such moneys in the State Highway Fund for purposes of bonds issued under ORS 367.615.

(6) Notwithstanding any other provision of this section, the following moneys shall be transferred to the State Highway Fund at the times described:

(a) Moneys received under ORS 802.120 and not used for the payment of administrative expenses of the department shall be transferred before July 31 of each year.

(b) Moneys received from the registration of snowmobiles that is not to be used for payment of administrative expenses of the department shall be transferred within 30 days after the end of the quarter.

(c) Moneys received from the issuance of winter recreation parking permits or under ORS 153.630 from violation of the requirement to have a winter recreation parking permit and that is not used for payment of administrative expenses of the department shall be transferred within 30 days after the end of the quarter.

(7) The following moneys transferred to the State Highway Fund under this section may be used only for the purposes described as follows:

(a) Moneys collected from the issuance of winter recreation parking permits or under ORS 153.630 for violation of the requirement to have a winter recreation parking permit, and the interest on such moneys, shall be used to enforce the requirement for winter recreation parking permits and to remove snow from winter recreation parking locations designated under ORS 810.170. Any remaining moneys shall, upon approval by the Winter Recreation Advisory Committee:

(A) Be used to maintain parking locations developed with moneys obtained under ORS 810.170 and snowmobile facilities that are parking lots developed with moneys as provided under this section;

(B) Be used to develop additional winter recreation parking locations under ORS 810.170; or

(C) Be carried over to be used in subsequent years for the purposes and in the manner described in this paragraph.

(b) Moneys received from the registration of snowmobiles or under ORS 802.120 *[shall]* **may** be used for **development and maintenance of multiuse trails within urban growth boundaries described in section 31, chapter _____, Oregon Laws 2009 (Enrolled House Bill 2001), or for the development and maintenance of snowmobile facilities, including the acquisition of land therefor by any means other than the exercise of eminent domain.** Moneys received under ORS 802.120 may also be used for the enforcement of ORS 811.590, 821.100 to 821.120, 821.140, 821.150, 821.190, 821.210 and 821.240 to 821.290.

(8) The department shall maintain the Revolving Account for Emergency Cash Advances separate from other moneys described in this section. From the account, the department may pay for the taking up of dishonored remittances returned by banks or the State Treasurer and for emergency cash advances to be subsequently reimbursed. The account shall be used only as a revolving fund. The department shall at all times be accountable for the amount of the account, either in cash or unreimbursed items and advances. The moneys in the account are continuously appropriated for the purposes of this subsection. The amount of the account under this subsection shall not exceed \$40,000 from moneys received by the department in the performance of its driver and motor vehicle services functions and moneys otherwise appropriated for purposes of this subsection. The account under this subsection shall be kept on deposit with the State Treasurer. The State Treasurer is authorized to honor and pay all properly signed and indorsed checks or warrants drawn against the account.

EDUCATION

SECTION 49. ORS 327.535 is amended to read:

327.535. (1) Subject to subsections (2) and (3) of this section, *[any]* a school district that provides lunch at any school site shall make *[breakfasts]* **breakfast accessible as part of a breakfast program** if 25 percent or more of the students at the site are eligible for free or reduced price lunches under the United States Department of Agriculture's current Income Eligibility Guidelines or the school site qualifies for assistance under Chapter I of Title I of the federal Elementary and Secondary Education Act of 1965.

(2) *[The]* **A school district that makes breakfast accessible as provided under subsection (1) of this section** may apply to the State Board of Education for a waiver for all or for particular grade levels if it is financially unable to implement a breakfast program. The state board may grant a waiver to the school district for a period not to exceed two years, after which the school district must reestablish its claim of financial hardship if the waiver is to be extended.

(3) If the per meal federal reimbursement for the *[free and reduced price]* breakfast program falls below the 1991 reimbursement levels, a school district may elect to discontinue the program until federal funding is restored to those levels. No waiver is required for such election.

(4) **A school district that makes breakfast accessible at any school site shall make breakfast accessible at that school site at no charge to all students who are eligible for free or reduced price lunches under the United States Department of Agriculture's current Income Eligibility Guidelines. For each breakfast that a school district provides free of charge to a student who is eligible for a reduced price lunch, the Department of Education shall provide reimbursement to the school district for the actual amount that a student would have been required to pay for the reduced price breakfast.**

SECTION 50. The amendments to ORS 327.535 by section 49 of this 2009 Act first apply to the 2009-2010 school year.

MISCELLANEOUS

SECTION 51. The unit captions used in this 2009 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2009 Act.

SECTION 52. This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect on its passage.

Passed by House June 29, 2009

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Chief Clerk of House

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Speaker of House

Passed by Senate June 29, 2009

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President of Senate

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

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Governor

Filed in Office of Secretary of State:

.....M,....., 2009

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Secretary of State