

Enrolled
House Bill 3696

Sponsored by JOINT COMMITTEE ON WAYS AND MEANS

CHAPTER

AN ACT

Relating to public financial administration; creating new provisions; amending ORS 21.110, 21.480, 36.170, 36.615, 130.355, 130.400, 182.472, 197.090, 291.371, 403.450, 403.455, 403.460, 480.345, 480.350, 496.951, 701.133 and 836.072 and section 7, chapter 218, Oregon Laws 2007, sections 2, 4, 13, 15, 17 and 20, chapter 659, Oregon Laws 2009, and sections 24 and 25, chapter 906, Oregon Laws 2009; repealing section 3, chapter 328, Oregon Laws 2001, section 1a, chapter 659, Oregon Laws 2009, and section 37d, chapter 885, Oregon Laws 2009; and declaring an emergency.

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

SALARY PLAN CHANGES

SECTION 1. ORS 291.371 is amended to read:

291.371. (1) As used in this section, "legislative review agency" means the Joint Committee on Ways and Means during the period when the Legislative Assembly is in session and the Emergency Board **or the interim Joint Committee on Ways and Means** during the interim period between sessions.

(2) Prior to making any changes in a salary plan, the Oregon Department of Administrative Services shall submit the proposed changes to the legislative review agency.

(3)(a) The Oregon Department of Administrative Services may approve the reallocation of positions or the establishment of new positions not specifically provided for in the budget of the affected agency if it finds that the proposed change:

(A) Can be financed by the agency within the limits of its biennial budget and legislatively approved program;

(B) Will not produce future budgetary increases; and

(C) Conforms to legislatively approved salary policies.

(b) Proposed changes not meeting the requirements of paragraph (a) of this subsection shall be presented to the legislative review agency.

(4) Agencies within the Department of Human Services, the Oregon Health Authority and the Department of Corrections shall report on a biennial basis to the legislative review agency. Each report shall include the number of vacant budgeted positions, including all job categories and classifications, within the agency. The legislative review agency shall order the reporting agency to show cause why the budgeted positions have not been filled and shall assess fully the impact the vacancies have on:

(a) The agency's delivery of services, accounting for any seasonal fluctuation in the need for those services;

- (b) The agency's budget due to increased use of overtime;
- (c) The agency's use of temporary employees; and
- (d) Employee workload.

(5) It is declared to be the policy of this state that the total personal services, budget and full-time equivalent positions approved for any state agency shall be the maximum amount necessary to meet the requirements of the agency for the biennium. Notwithstanding ORS 291.232 to 291.260, the Governor and the Oregon Department of Administrative Services may transfer vacant position authority among and within state agencies to achieve maximum utilization of authorized positions within agencies.

SEMI-INDEPENDENT STATE AGENCIES

SECTION 2. ORS 182.472 is amended to read:

182.472. Not later than [January 1] **April 1** of each even-numbered year, each board subject to ORS 182.456 to 182.472 shall submit a report to the Governor, the President of the Senate, the Speaker of the House of Representatives and the Legislative Fiscal Officer. The Legislative Fiscal Officer shall review the reports and shall prepare and submit a statement of findings and conclusions to the Joint Legislative Audit Committee **and the Joint Committee on Ways and Means**. The report must include the following:

- (1) A copy of the most recent audit or financial review of the board.
- (2) A copy of the actual budget for the prior biennium and a copy of the board's adopted budget for the biennium in which the report is made. The budget documents must show:
 - (a) The beginning balance and ending balance for each of the two biennia;
 - (b) A description of material changes between the two biennia;
 - (c) A description of the public hearing process used to establish the budget adopted for the current biennium; and
 - (d) A description of current fees and proposed changes to fees, along with information supporting the amounts of the current fees and any proposed changes to the fees.
- (3) A description of all temporary and permanent rules adopted by the board [*since the last report was submitted*] **during the prior biennium**.
- (4) A description of board actions promoting consumer protection that were taken [*since the last report was submitted*] **during the prior biennium**.
- (5) If the board issues licenses, a description of the board's licensing activities performed [*since the last report*] **during the prior biennium** that is adequate to allow evaluation of the board's performance of its licensing responsibilities, including:
 - (a) The number of license applications;
 - (b) The number of licenses issued;
 - (c) The number of examinations conducted;
 - (d) The average time between application for and issuance of licenses;
 - (e) The number and types of complaints received about persons holding licenses;
 - (f) The number and types of investigations conducted;
 - (g) The number and types of resolutions of complaints;
 - (h) The number and type of sanctions imposed; and
 - (i) The number of days between beginning an investigation and reaching a resolution.
- (6) A description of all other actions taken [*since the last report*] **during the prior biennium** in the performance of the board's statutory responsibilities that is adequate to allow evaluation of the board's performance.

SECTION 3. The amendments to ORS 182.472 by section 2 of this 2010 Act apply to reports, audits and financial reviews required to be submitted on or after the effective date of this 2010 Act.

SECTION 4. Section 7, chapter 218, Oregon Laws 2007, is amended to read:

Sec. 7. (1) The amendments to ORS 182.464 and 182.472 by sections 1 and 2 [of this 2007 Act], **chapter 218, Oregon Laws 2007**, apply to financial review schedules for financial reviews to be included in reports to be submitted to the Governor and the Legislative Assembly [not later than the date on which the Seventy-fifth Legislative Assembly convenes] **on or after January 12, 2009**.

(2) The amendments to ORS 297.210 by section 3 [of this 2007 Act], **chapter 218, Oregon Laws 2007**, apply to audits or reviews required to be made of an institution or department of state government when the executive head of the institution or department retires on or after [the effective date of this 2007 Act] **May 30, 2007**.

(3) The amendments to ORS 406.085 by section 4 [of this 2007 Act], **chapter 218, Oregon Laws 2007**, apply to disbursements made from the Conservatorship Revolving Account on or after [the effective date of this 2007 Act] **May 30, 2007**.

(4) The repeal of ORS 206.320 by section 6 [of this 2007 Act], **chapter 218, Oregon Laws 2007**, applies to services performed by a sheriff on behalf of the state on or after [the effective date of this 2007 Act] **May 30, 2007**.

COUNTY COURT FACILITIES

SECTION 5. Section 24, chapter 906, Oregon Laws 2009, is amended to read:

Sec. 24. (1) The Legislative Assembly finds that:

(a) The Oregon judicial system is an essential component of the public safety system that fosters an orderly and stable environment in which business can develop and thrive.

(b) Construction and maintenance of **county** court facilities is necessary so that the judicial system can continue to function effectively.

(c) The factors described in paragraphs (a) and (b) of this subsection will create construction jobs and encourage and promote economic development through the maintenance of an orderly and stable business environment, and the issuance of lottery bonds for the purpose described in subsection (3) of this section is therefore an appropriate use of state lottery funds under section 4, Article XV of the Oregon Constitution, and ORS 461.510.

(2) For the biennium beginning July 1, 2009, at the request of the Oregon Department of Administrative Services, after consultation with the Judicial Department, the State Treasurer is authorized to issue lottery bonds pursuant to ORS 286A.560 to 286A.585 in an amount not to exceed net proceeds of \$11,271,656 for the purpose described in subsection (3) of this section, plus an additional amount, to be estimated by the State Treasurer, for payment of bond-related costs.

(3) Net proceeds of bonds issued pursuant to this section shall be deposited in the Oregon Judicial Facilities Fund to finance construction and maintenance of **county** court facilities.

(4) Bond-related costs for the lottery bonds authorized by this section must be paid from the gross proceeds of the lottery bonds and from allocations for the purposes of ORS 286A.576 (1)(c).

SECTION 6. Section 25, chapter 906, Oregon Laws 2009, is amended to read:

Sec. 25. The Oregon Judicial Facilities Fund is established in the State Treasury, separate and distinct from the General Fund. The Oregon Judicial Facilities Fund shall consist of moneys deposited in the fund under section 24 [of this 2009 Act], **chapter 906, Oregon Laws 2009**. The moneys in the Oregon Judicial Facilities Fund and the interest earnings on moneys in the fund are continuously appropriated to the Oregon Department of Administrative Services for [disbursement to Oregon counties to finance] **the purpose of financing** construction and maintenance of **county** court facilities.

OREGON DEPARTMENT OF AVIATION

SECTION 7. ORS 836.072 is amended to read:

836.072. (1) Moneys from the increases in taxes by the amendments to ORS 319.020 by sections 1 and 3, chapter 1037, Oregon Laws 1999, shall be used by the Oregon Department of Aviation:

(a) To establish and fund a program to maintain and preserve the pavements used for runways, taxiways and aircraft parking areas at public use airports in this state[.]; **or**

(b) For operating expenses of the department.

(2) Projects for maintenance and preservation of pavements at public use airports that are identified in the plan developed under ORS 835.015 are eligible for funding under this section. The following expenses of projects selected may be funded under this section:

- (a) Construction expenses;
- (b) Engineering expenses; and
- (c) Administrative expenses.

(3) The Director of the Oregon Department of Aviation shall prepare a list of recommended projects. Factors to be used by the director include, but are not limited to:

- (a) The age and condition of pavements;
- (b) An airport's role in the state's aviation system, as described by the plan developed under ORS 835.015; and
- (c) Local financial participation in projects.

(4) The director shall forward the list of recommended projects to the State Aviation Board for approval.

(5) The department may adopt such rules as it deems necessary for implementation of the airport pavement preservation program.

(6) For purposes of this section, "operating expenses of the department" includes, but is not limited to, expenses for personal services, other services and supplies and capital outlay.

SECTION 8. ORS 836.072, as amended by section 7 of this 2010 Act, is amended to read:

836.072. (1) Moneys from the increases in taxes by the amendments to ORS 319.020 by sections 1 and 3, chapter 1037, Oregon Laws 1999, shall be used by the Oregon Department of Aviation[.]

[(a)] to establish and fund a program to maintain and preserve the pavements used for runways, taxiways and aircraft parking areas at public use airports in this state[.]; *or]*

[(b) For operating expenses of the department.]

(2) Projects for maintenance and preservation of pavements at public use airports that are identified in the plan developed under ORS 835.015 are eligible for funding under this section. The following expenses of projects selected may be funded under this section:

- (a) Construction expenses;
- (b) Engineering expenses; and
- (c) Administrative expenses.

(3) The Director of the Oregon Department of Aviation shall prepare a list of recommended projects. Factors to be used by the director include, but are not limited to:

- (a) The age and condition of pavements;
- (b) An airport's role in the state's aviation system, as described by the plan developed under ORS 835.015; and
- (c) Local financial participation in projects.

(4) The director shall forward the list of recommended projects to the State Aviation Board for approval.

(5) The department may adopt such rules as it deems necessary for implementation of the airport pavement preservation program.

[(6) For purposes of this section, "operating expenses of the department" includes, but is not limited to, expenses for personal services, other services and supplies and capital outlay.]

SECTION 9. The amendments to ORS 836.072 by section 8 of this 2010 Act become operative July 1, 2011.

DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT

SECTION 10. ORS 197.090 is amended to read:

197.090. (1) Subject to policies adopted by the Land Conservation and Development Commission, the Director of the Department of Land Conservation and Development shall:

(a) Be the administrative head of the Department of Land Conservation and Development.

(b) Coordinate the activities of the department in its land conservation and development functions with such functions of federal agencies, other state agencies, local governments and special districts.

(c) Appoint, reappoint, assign and reassign all subordinate officers and employees of the department, prescribe their duties and fix their compensation, subject to the State Personnel Relations Law.

(d) Represent this state before any agency of this state, any other state or the United States with respect to land conservation and development within this state.

[(e) Provide clerical and other necessary support services for the board.]

(2)(a) Subject to local government requirements and the provisions of ORS 197.830 to 197.845, the director may participate in and seek review of a land use decision, expedited land division or limited land use decision involving the goals, acknowledged comprehensive plan or land use regulation or other matter within the statutory authority of the department or commission under ORS chapters 195, 196 and 197. The director shall report to the commission on each case in which the department participates and on the positions taken by the director in each case.

(b) If a meeting of the commission is scheduled prior to the close of the period for seeking review of a land use decision, expedited land division or limited land use decision, the director shall obtain formal approval from the commission prior to seeking review of the decision. However, if the land use decision, expedited land division or limited land use decision becomes final less than 15 days before a meeting of the commission, the director shall proceed as provided in paragraph (c) of this subsection. If the director requests approval from the commission, the applicant and the affected local government shall be notified in writing that the director is seeking commission approval. The director, the applicant and the affected local government shall be given reasonable time to address the commission regarding the director's request for approval to seek review. The parties shall limit their testimony to the factors established under subsection (3) of this section. No other testimony shall be taken by the commission.

(c) If a meeting of the commission is not scheduled prior to the close of the period for seeking review of a land use decision, expedited land division or limited land use decision, at the next commission meeting the director shall report to the commission on each case for which the department has sought review. The director shall request formal approval to proceed with each appeal. The applicant and the affected local government shall be notified of the commission meeting in writing by the director. The director, the applicant and the affected local government shall be given reasonable time to address the commission regarding the director's request for approval to proceed with the appeal. The parties shall limit their testimony to the factors established under subsection (3) of this section. No other testimony shall be taken by the commission. If the commission does not formally approve an appeal, the director shall file a motion with the appropriate tribunal to dismiss the appeal.

(d) A decision by the commission under this subsection is not subject to appeal.

(e) For purposes of this subsection, "applicant" means a person seeking approval of a permit, as defined in ORS 215.402 or 227.160, expedited land division or limited land use decision.

(3) The commission by rule shall adopt a set of factors for the commission to consider when determining whether to appeal or intervene in the appeal of a land use decision, expedited land division or limited land use decision that involves the application of the goals, acknowledged comprehensive plan, land use regulation or other matter within the authority of the department or commission under ORS chapters 195, 196 and 197.

(4) The director may intervene in an appeal of a land use decision, expedited land division or limited land use decision brought by another person in the manner provided for an appeal by the director under subsection (2)(b) and (c) of this section.

GASOLINE DISPENSING

SECTION 11. ORS 480.350 is amended to read:

480.350. (1) Except as provided in ORS 480.355, a nonretail facility shall not operate without a license issued under this section.

(2) The State Fire Marshal shall issue a nonretail facility license to a person if the person submits an application to the State Fire Marshal on a form approved by the State Fire Marshal for each nonretail facility and the application includes:

(a) A statement that the applicant will comply with the requirements of ORS 480.345;

(b) A copy of the form that will be used by the applicant as the agreement required under ORS 480.345 between the applicant and nonretail customers permitted to dispense fuel at the nonretail facility;

(c) A sworn statement, as defined in ORS 162.055, that information supplied in the application is true and correct; and

(d) An application fee of [~~\$250~~] **\$300**.

(3) The applicant for a nonretail facility license shall bear the burden of proof that the requirements of this section and of any rules of the State Fire Marshal adopted to implement this section are satisfied.

(4) In addition to any license or renewal fees, a licensee shall pay an annual fee of [~~\$5~~] **\$7.50** for each nonretail customer that enters into a written agreement with the owner or operator of the nonretail facility under ORS 480.345.

(5) A license issued under this section shall be valid for a period of one year from the date of issuance.

(6) A license may be renewed upon payment to the State Fire Marshal of an annual license renewal fee of [~~\$250~~] **\$300**.

(7) All fees received by the State Fire Marshal pursuant to this section shall be deposited with the State Treasurer and shall be placed in the State Fire Marshal Fund.

SECTION 12. ORS 480.350, as amended by section 11 of this 2010 Act, is amended to read:

480.350. (1) Except as provided in ORS 480.355, a nonretail facility shall not operate without a license issued under this section.

(2) The State Fire Marshal shall issue a nonretail facility license to a person if the person submits an application to the State Fire Marshal on a form approved by the State Fire Marshal for each nonretail facility and the application includes:

(a) A statement that the applicant will comply with the requirements of ORS 480.345;

(b) A copy of the form that will be used by the applicant as the agreement required under ORS 480.345 between the applicant and nonretail customers permitted to dispense fuel at the nonretail facility;

(c) A sworn statement, as defined in ORS 162.055, that information supplied in the application is true and correct; and

(d) An application fee of \$300.

(3) The applicant for a nonretail facility license shall bear the burden of proof that the requirements of this section and of any rules of the State Fire Marshal adopted to implement this section are satisfied.

(4) In addition to any license or renewal fees, a licensee shall pay an annual fee of [~~\$7.50~~] **\$10** for each nonretail customer that enters into a written agreement with the owner or operator of the nonretail facility under ORS 480.345.

(5) A license issued under this section shall be valid for a period of one year from the date of issuance.

(6) A license may be renewed upon payment to the State Fire Marshal of an annual license renewal fee of \$300.

(7) All fees received by the State Fire Marshal pursuant to this section shall be deposited with the State Treasurer and shall be placed in the State Fire Marshal Fund.

SECTION 13. (1) The amendments to ORS 480.350 by section 11 of this 2010 Act become operative July 1, 2010.

(2) The amendments to ORS 480.350 by section 12 of this 2010 Act become operative July 1, 2011.

SECTION 14. ORS 480.345, as amended by section 2, chapter 328, Oregon Laws 2001, is amended to read:

480.345. Notwithstanding ORS 480.330 and 480.340, the owner, operator or employee of a dispensing facility may permit nonretail customers other than the owner, operator or employee to use or manipulate at the dispensing facility a card activated or key activated device for dispensing Class 1 flammable liquids into the fuel tank of a motor vehicle or other container under the following conditions:

(1) The owner or operator shall hold a current nonretail facility license issued by the State Fire Marshal under ORS 480.350;

(2) After April 1, 1992, a nonretail customer shall purchase at least [2,400] **900** gallons of Class 1 flammable liquids or diesel fuel from any source during a 12-month period or, if the amount of such liquids or fuel purchased is less than [2,400] **900** gallons annually, file documentation that:

(a) The fuel qualifies as a deductible farming expense on the customer's federal income tax return; or

(b) The fuel was purchased by a governmental agency providing fire, ambulance or police services;

(3) The nonretail customer shall provide a federal employer identification number or equivalent documentation to indicate participation in a business or employment with a government agency or nonprofit or charitable organization;

(4) The nonretail customer, other than the owner or operator, dispensing Class 1 flammable liquids shall be employed by a business, government agency or nonprofit or charitable organization and shall dispense Class 1 flammable liquids only into the fuel tank of a motor vehicle or other container owned [and] **or** used by the business, government agency or nonprofit or charitable organization;

(5) The nonretail customer, other than the owner, operator or employee, dispensing Class 1 flammable liquids shall have satisfied safety training requirements in compliance with rules of the State Fire Marshal; and

(6) The owner or operator shall enter into a written agreement with nonretail customers permitted under this section to dispense fuel at the nonretail facility. Except as otherwise provided in ORS 480.355, the agreement shall at a minimum:

(a) Certify that the nonretail customer will purchase at least [2,400] **900** gallons of Class 1 flammable liquids or diesel fuel from any source during a 12-month period or, if the amount of such liquids or fuel purchased is less than [2,400] **900** gallons annually, file documentation that:

(A) The fuel qualifies as a deductible farming expense on the customer's federal income tax return; or

(B) The fuel was purchased by a governmental agency providing fire, ambulance or police services;

(b) Provide a federal employer identification number or equivalent documentation to indicate participation in a business or employment with a government agency or nonprofit or charitable organization;

(c) Certify that the nonretail customer is employed by a business, government agency or nonprofit or charitable organization and that the nonretail customer shall dispense Class 1 flammable liquids only into the fuel tank of a motor vehicle or other container owned [and] **or** used by the business, government agency or nonprofit or charitable organization;

(d) Certify that the nonretail customer has satisfied safety training requirements in compliance with rules of the State Fire Marshal; and

(e) Require the nonretail customer to submit a sworn statement, as defined in ORS 162.055, that the information supplied in the agreement is true and correct.

SECTION 15. Section 3, chapter 328, Oregon Laws 2001, is repealed.

PROJECT CLEAN SLATE

SECTION 16. Notwithstanding any other provision of law, during the biennium beginning July 1, 2009, the Department of Justice is authorized to grant to Project Clean Slate the amount of \$175,000 from moneys appropriated to the department, out of the General Fund, for the biennium beginning July 1, 2009.

JUDICIAL SYSTEM SURCHARGE ACCOUNT ALLOCATIONS

SECTION 17. (1) During the biennium commencing July 1, 2009, the Department of Revenue shall make monthly distributions from the Judicial System Surcharge Account pursuant to the allocations specified in this section. The department may not make a monthly distribution if the balance in the account is less than \$500,000 at the time the distribution would otherwise be made.

(2) Before making a monthly distribution under this section, the department may distribute to itself the lesser of 0.05 percent of the balance in the Judicial System Surcharge Account or the amount necessary to pay the costs incurred by the department in administering the account.

(3) Subject to subsection (2) of this section, the following allocations are made from the Judicial System Surcharge Account for the biennium commencing July 1, 2009:

(a) To the Legislative Administration Committee, \$50,000 for the expenses of the Joint Interim Committee on State Justice System Revenues, to be paid from the first monthly distribution made by the department on or after the effective date of this 2010 Act.

(b) To the Legislative Fiscal Officer, \$100,000 for the expenses of the Joint Interim Committee on State Justice System Revenues incurred in contracting for a study of funding models for the judicial branch, to be paid from the first monthly distribution made by the department on or after the effective date of this 2010 Act.

(c) To the Legislative Counsel Committee, \$274,022 for the Council on Court Procedures and the Oregon Law Commission, to be paid from the first monthly distribution made by the department on or after the effective date of this 2010 Act.

(d) To the Judicial Department, 65 percent of each monthly distribution after any payments required under paragraphs (a), (b) and (c) of this subsection, to be used for court operations. Amounts distributed to the Judicial Department under this paragraph in the biennium commencing July 1, 2009, may not exceed \$22,002,005.

(e) To the Public Defense Services Commission, 35 percent of each monthly distribution after any payments required under paragraphs (a), (b) and (c) of this subsection, to be used for trial-level public defense. Amounts distributed to the Public Defense Services Commission under this paragraph in the biennium commencing July 1, 2009, may not exceed \$12,380,573.

SECTION 18. Section 1a, chapter 659, Oregon Laws 2009, is repealed.

SECTION 19. The repeal of section 1a, chapter 659, Oregon Laws 2009, by section 18 of this 2010 Act does not affect any distribution made under section 1a, chapter 659, Oregon Laws 2009, before the effective date of this 2010 Act. The Department of Revenue shall include amounts distributed under section 1a, chapter 659, Oregon Laws 2009, in determining when the limits on distributions under section 17 (3)(d) and (e) of this 2010 Act are met.

OFFENSE SURCHARGES

SECTION 20. Section 2, chapter 659, Oregon Laws 2009, is amended to read:

Sec. 2. (1) In all cases of conviction for the commission of a crime or violation, excluding parking violations, the trial court, whether a circuit, justice or municipal court, shall impose upon

the defendant, in addition to any fine, cost or other monetary obligation imposed, an offense surcharge under this section. Except when the person successfully asserts the defense set forth in ORS 419C.522, the offense surcharge shall also be imposed by the circuit court and county court in juvenile cases under ORS 419C.005 (1). The offense surcharge is a penal obligation in the nature of a fine and shall be in an amount as follows:

- (a) \$35 in the case of a felony.
- (b) \$35 in the case of a misdemeanor.
- (c) \$45 in the case of a violation as described in ORS 153.008.

(2) A court may waive all or part of the offense surcharge required by this section only if the court imposes no fine on the defendant.

(3) The offense surcharge required by this section shall be imposed only for offenses that are committed on or after October 1, 2009, and before July 1, 2011.

(4)(a) Offense surcharges imposed under this section are part of the base fine for the purposes of ORS chapter 153.

(b) The provisions of ORS 153.093 do not affect the amount of the offense surcharge imposed and collected under this section, and the amount calculated under ORS 153.093 (1) includes the full amount of the offense surcharge.

(5) Offense surcharges imposed in a circuit court under this section are category 3 monetary obligations for the purposes of ORS 137.295 and shall be collected as provided in ORS 137.295. Offense surcharges imposed in a justice court, county court or municipal court under this section are category 4 monetary obligations for the purposes of ORS 137.295 and shall be collected as provided in ORS 137.295. Amounts collected as offense surcharges under this section may not be deposited in the Criminal Fine and Assessment Account, or transferred to the Department of Revenue, under ORS 137.295 (5), but must be deposited or paid as follows:

(a) Offense surcharges imposed in circuit courts shall be deposited by the Department of Revenue in the Judicial System Surcharge Account.

(b) Offense surcharges imposed in a justice court or county court shall be paid to the county treasurer.

(c) Offense surcharges imposed in a municipal court shall be paid to the city treasurer.

(6) The collections and revenue management program established under ORS 1.204 may not be reimbursed under ORS 1.204 from amounts imposed as offense surcharges under this section.

SECTION 21. ORS 496.951 is amended to read:

496.951. (1) The base fine amount for a violation of wildlife laws or rules as described in ORS 496.992 (2) that is required in violation proceedings under ORS chapter 153 shall be as follows:

(a) Violations that do not involve the taking of wildlife, except for violations of the nonresident licensing provisions of ORS 497.102 and 497.121 and the provisions of ORS 496.994, [~~\$75~~] **\$120**.

(b) Violations that involve the taking of nongame mammals or game birds, and size or quantity limits for fish and shellfish, except salmon, steelhead trout and sturgeon, [~~\$150~~] **\$195**.

(c) Violations that involve the taking of salmon, steelhead trout, sturgeon, wildlife not otherwise provided for and all other wildlife offenses, [~~\$299~~] **\$344**.

(2) The base fine amount established under subsection (1) of this section includes the unitary assessment required under ORS 137.290, **the offense surcharge imposed by section 2, chapter 659, Oregon Laws 2009**, and the county assessment required under ORS 137.309.

(3) A court may not establish a base fine amount for a violation of an offense described in subsection (1) of this section other than the amount listed in this section.

SECTION 22. **The amendments to section 2, chapter 659, Oregon Laws 2009, by section 20 of this 2010 Act and the amendments to ORS 496.951 by section 21 of this 2010 Act become operative May 1, 2010.**

SECTION 23. ORS 496.951, as amended by section 21 of this 2010 Act, is amended to read:

496.951. (1) The base fine amount for a violation of wildlife laws or rules as described in ORS 496.992 (2) that is required in violation proceedings under ORS chapter 153 shall be as follows:

(a) Violations that do not involve the taking of wildlife, except for violations of the nonresident licensing provisions of ORS 497.102 and 497.121 and the provisions of ORS 496.994, [~~\$120~~] **\$75**.

(b) Violations that involve the taking of nongame mammals or game birds, and size or quantity limits for fish and shellfish, except salmon, steelhead trout and sturgeon, [~~\$195~~] **\$150**.

(c) Violations that involve the taking of salmon, steelhead trout, sturgeon, wildlife not otherwise provided for and all other wildlife offenses, [~~\$344~~] **\$299**.

(2) The base fine amount established under subsection (1) of this section includes the unitary assessment required under ORS 137.290[~~, the offense surcharge imposed by section 2, chapter 659, Oregon Laws 2009,~~] and the county assessment required under ORS 137.309.

(3) A court may not establish a base fine amount for a violation of an offense described in subsection (1) of this section other than the amount listed in this section.

SECTION 24. The amendments to ORS 496.951 by section 23 of this 2010 Act become operative July 1, 2011.

SURCHARGES FOR TRUST MODIFICATIONS

SECTION 25. Section 4, chapter 659, Oregon Laws 2009, is amended to read:

Sec. 4. (1) In addition to the fees provided for in ORS 21.010 (1), for the period commencing October 1, 2009, and ending June 30, 2011, at the time of filing a response in the Court of Appeals or the Supreme Court, the State Court Administrator shall collect a surcharge of \$8.

(2)(a) In addition to the fees provided for in ORS 21.111 (1), for the period commencing October 1, 2009, and ending June 30, 2011, in the proceedings specified in ORS 21.111 (2) the clerk of the circuit court shall collect a surcharge of \$5 from the petitioner at the time the petition is filed, and shall collect a surcharge of \$3 from the respondent upon the respondent making an appearance.

(b) In addition to the fees provided for in ORS 21.111 (3), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the circuit court shall collect from the moving party a surcharge of \$3 at the time of the filing of a motion for the modification of a decree of marital annulment, dissolution or separation, if the motion is filed more than one year after the entry of the decree in the register of the court.

(3) In addition to the fees provided for ORS 21.114 (1), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the court shall collect:

(a) In an adoption proceeding, a surcharge of \$2 from the party filing the petition for adoption and a surcharge of \$1 from an objecting party appearing separately or objecting parties appearing jointly.

(b) In a change of name proceeding, a surcharge of \$61 from the party filing the application for change of name and a surcharge of \$61 from an objecting party appearing separately or objecting parties appearing jointly.

(4) In addition to the fee provided for in ORS 21.114 (3), for the period commencing October 1, 2009, and ending June 30, 2011, in any adoption or change of name proceeding in a court having jurisdiction, the clerk of the court shall collect from the party having the affirmative of the issue, at the time the proceeding comes on for trial or hearing upon the issues of fact or law involved therein, a surcharge of \$2.

(5)(a) In addition to the trial fee provided for in ORS 21.270 (2), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the circuit court shall collect from the plaintiff, appellant or moving party, for a trial on the merits without a jury, a surcharge on the trial fee of \$33 for each full or partial day of the trial.

(b) In addition to the jury trial fee provided for in ORS 21.270 (3), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk shall collect from the plaintiff or appellant, for a trial by a jury of more than six persons, a surcharge on the jury trial fee of \$32 for each full or partial day of the trial. The clerk shall collect from the plaintiff or appellant, for a trial by a jury of six persons, a surcharge on the jury trial fee of \$40 for each full or partial day of the trial.

(6) In addition to the hearing fee provided for in ORS 21.275 (3), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the circuit court shall collect a surcharge on the hearing fee of \$12 if the hearing period is not more than three hours or \$33 if the hearing period is more than three hours.

(7)(a) In addition to the fees provided for in ORS 21.310 (1), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the court shall collect the following surcharges for the filing of the initial papers in any probate proceeding, including petitions for the appointment of personal representatives, probate of wills and contest of wills, or in any conservatorship proceeding:

Where the amount of the estate is:

1. Not more than \$10,000--a surcharge of \$1.
2. More than \$10,000 and not more than \$25,000--a surcharge of \$4.
3. More than \$25,000 and not more than \$50,000--a surcharge of \$8.
4. More than \$50,000 and not more than \$100,000--a surcharge of \$12.
5. More than \$100,000 and not more than \$500,000--a surcharge of \$15.
6. More than \$500,000 and not more than \$1,000,000--a surcharge of \$19.
7. More than \$1,000,000--a surcharge of \$23.

(b) In addition to the fee provided for in ORS 21.310 (3), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk shall collect a surcharge of \$1 for the filing of the initial papers in any guardianship proceeding.

(c) In addition to the fee provided for in ORS 21.310 (5), for the period commencing October 1, 2009, and ending June 30, 2011, at the time of filing any answer, motion or objection in a probate proceeding or protective proceeding under ORS chapter 125, the party filing the answer, motion or objection shall pay a surcharge of \$1 to the clerk.

(d) In addition to the fee provided for in ORS 21.310 (7), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk shall collect from the party having the affirmative of the issue, at the time the proceeding comes on for trial or hearing upon the issues of fact or law involved therein, a surcharge on the trial or hearing fee of \$2.

(8) In addition to the fees provided for in ORS 21.325 (3), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the court shall collect a surcharge of \$2 for the filing of a copy of foreign judgment and affidavit filed as provided in ORS 24.115 and 24.125 or the filing of a copy of child custody determination of another state filed as provided in ORS 109.787.

(9) In addition to the fees provided for in ORS 21.325 (4), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the court shall collect a surcharge of \$6 for issuing a writ of execution or a writ of garnishment.

(10) In addition to the fee provided for in ORS 34.340, for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the court shall collect a surcharge of \$1 upon the filing of a petition for a writ of habeas corpus.

(11) In addition to the fees provided for in ORS 36.520 (5), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the circuit court shall collect from the party making application for setting aside under ORS 36.520 (1) a surcharge of \$2 and from a party filing an appearance in opposition to the application a surcharge of \$1.

(12) In addition to the fee provided for in ORS 36.522 (3), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the circuit court shall collect a surcharge of \$1 for the filing of an arbitral award or application for enforcement of an arbitral award under ORS 36.522.

(13) In addition to the fee provided for in ORS 36.524 (1), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the circuit court shall collect a surcharge of \$1 for the filing under ORS 36.524 (1).

(14) In addition to the fee provided for in ORS 36.615 (1)(b), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the circuit court shall collect a surcharge of \$2 upon the filing of a petition to seek confirmation, vacation, modification or correction of an award under ORS 36.700, 36.705 or 36.710, and a surcharge of \$1 from a person filing an appearance in opposition to the petition.

(15) In addition to the fees provided for in ORS 46.570 (1), for the period commencing October 1, 2009, and ending June 30, 2011, in the small claims department of a circuit court the clerk of the court shall collect:

(a) A \$24 surcharge when a defendant demands a hearing and the amount or value claimed by the plaintiff does not exceed \$1,500; and

(b) A \$50 surcharge when a defendant demands a hearing and the amount or value claimed by the plaintiff exceeds \$1,500.

(16)(a) In addition to the fees provided for in ORS 105.130 (2), for the period commencing October 1, 2009, and ending June 30, 2011, upon filing a complaint in the case of a dwelling unit to which ORS chapter 90 applies, the clerk of the court shall collect a surcharge of \$12.

(b) In addition to the fees provided for in ORS 105.130 (3), for the period commencing October 1, 2009, and ending June 30, 2011, if the defendant demands a trial after a complaint is filed under ORS 105.130 (2), the plaintiff shall pay a surcharge of \$2.

(17) In addition to the fee provided for in ORS 107.434 (1), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the court shall collect a surcharge of \$3 upon the filing of a motion seeking enforcement of a parenting time order or a substantial violation of a parenting plan.

(18) In addition to the fee provided for in ORS 112.820 (1)(d), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the probate court shall collect a surcharge of \$1 for filing of an affidavit under ORS 112.820 (1).

(19) In addition to the fee provided for in ORS 114.515 (6), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the probate court shall collect a surcharge of \$1 upon the filing of an affidavit under ORS 114.515.

(20) In addition to the fee provided for in ORS [130.200 (8)(a)] **130.045 (7)**, for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the circuit court shall collect a surcharge of \$3 for the filing of an agreement or memorandum of agreement under ORS [130.200 (6)] **130.045 (5)** and a surcharge of \$2 for the filing of objections under ORS [130.200 (7)] **130.045 (6)**.

(21) In addition to the fee provided for in ORS 138.560, for the period commencing October 1, 2009, and ending June 30, 2011, a petitioner shall pay a surcharge of \$1 at the time of filing a petition under ORS 138.560.

(22) In addition to the fee provided for in ORS 166.274, for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the court shall collect a surcharge of \$5 for the filing of a petition for relief under ORS 166.274.

(23) In addition to the fees provided for in ORS 305.490, for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the tax court shall collect the following surcharges:

(a) For a complaint or petition in the magistrate division, \$50.

(b) For a complaint or petition in the regular division, \$100.

(c) If a complaint or petition is specially designated under ORS 305.501 for hearing in the regular division, a fee of \$100.

(24) In addition to the fee provided for in ORS 419B.555 (6), for the period commencing October 1, 2009, and ending June 30, 2011, the clerk of the court shall collect a surcharge of \$4 for each application for emancipation under ORS 419B.555.

(25) Except as provided in subsection (26) of this section, surcharges imposed under this section shall be deposited in the Judicial System Surcharge Account. The collections and revenue management program established under ORS 1.204 may not be reimbursed under ORS 1.204 from surcharges imposed under this section.

(26) A surcharge imposed by a county court under subsection (7) of this section or by a justice court under subsection (16) of this section shall be paid to the county treasurer.

SECTION 26. The amendments to section 4, chapter 659, Oregon Laws 2009, by section 25 of this 2010 Act become operative May 1, 2010.

THIRD-PARTY CLAIMS

SECTION 27. Section 13, chapter 659, Oregon Laws 2009, is amended to read:

Sec. 13. (1) **Notwithstanding ORS 21.110 (11)(g)**, when a person files a third-party complaint in a civil action, suit or proceeding in circuit court, the clerk of the court shall collect from the third-party plaintiff the same fees, charges and surcharges that would be required of a plaintiff filing the same complaint in an original action. **Fees collected under this section are subject to ORS 21.110 (9).**

(2) When a third-party defendant files an appearance in a civil action, suit or proceeding in circuit court, the clerk of the court shall collect the same fees, charges and surcharges that would be required of a defendant filing the same appearance in an original action.

(3) This section applies only to third-party complaints and appearances filed on or after October 1, 2009, and before July 1, 2011.

(4) All amounts imposed as fees 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 amounts imposed under this section.

MULTIPLE PARTIES AND COMPLEX LITIGATION

SECTION 28. ORS 21.110 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.]

(1) Except as otherwise provided by law, at the time of filing of a complaint or other pleading or motion in the circuit court for the purpose of commencing an action or other civil proceeding, the clerk of the circuit court shall collect a fee of \$78 from the party filing the pleading or motion if the amount claimed or in controversy does not exceed \$10,000, without regard to the number of parties named in the pleading or motion. The clerk shall collect the same fee for each answer or other first appearance filed in the action or proceeding.

(2)(a) Except as otherwise provided by law, at the time of filing of a complaint or other pleading or motion in the circuit court for the purpose of commencing an action or other civil proceeding, the clerk of the circuit court shall collect the following fees:

(A) If the amount claimed or in controversy is more than \$10,000, and less than \$50,000, the clerk of the circuit court shall collect a fee of \$117 for each named plaintiff, appellant or moving party. In addition, if more than one defendant or respondent is named the clerk shall collect a fee of \$117 apiece for the second, third and subsequent defendants or respondents named in the pleading.

(B) If the amount claimed or in controversy is \$50,000 or more, and less than \$150,000, the clerk of the circuit court shall collect a fee of \$225 for each named plaintiff, appellant or moving party. In addition, if more than one defendant or respondent is named the clerk shall collect a fee of \$225 apiece for the second, third and subsequent defendants or respondents named in the pleading.

(C) If the amount claimed or in controversy is \$150,000 or more, and less than \$500,000, the clerk of the circuit court shall collect a fee of \$275 for each named plaintiff, appellant or moving party. In addition, if more than one defendant or respondent is named the clerk shall collect a fee of \$275 apiece for the second, third and subsequent defendants or respondents named in the pleading.

(D) If the amount claimed or in controversy is \$500,000 or more, and less than \$1 million, the clerk of the circuit court shall collect a fee of \$325 for each named plaintiff, appellant or moving party. In addition, if more than one defendant or respondent is named the clerk shall collect a fee of \$325 apiece for the second, third and subsequent defendants or respondents named in the pleading.

(E) If the amount claimed or in controversy is \$1 million or more, the clerk of the circuit court shall collect a fee of \$375 for each named plaintiff, appellant or moving party. In addition, if more than one defendant or respondent is named the clerk shall collect a fee of \$375

apiece for the second, third and subsequent defendants or respondents named in the pleading.

(b) If at any time a plaintiff, appellant or moving party files an amended pleading that names one or more additional parties to a proceeding subject to a fee under paragraph (a) of this subsection, the clerk of the circuit court shall collect an additional fee that is equal to the difference between the fee that was paid and the fee that would have been collected under paragraph (a) of this subsection if the party or parties had been named in the original pleading.

(3) Except as otherwise provided by law, at the time of filing in the circuit court of an answer or other first appearance in a proceeding subject to a fee under subsection (2) of this section, the clerk shall collect the following fees:

(a) If the amount claimed or in controversy is more than \$10,000, and less than \$50,000, the clerk of the circuit court shall collect a fee of \$117. If a first appearance is filed jointly for more than one defendant or respondent, the clerk shall collect a fee of \$117 for each of those defendants or respondents.

(b) If the amount claimed or in controversy is \$50,000 or more, and less than \$150,000, the clerk of the circuit court shall collect a fee of \$225. If a first appearance is filed jointly for more than one defendant or respondent, the clerk shall collect a fee of \$225 for each of those defendants or respondents.

(c) If the amount claimed or in controversy is \$150,000 or more, and less than \$500,000, the clerk of the circuit court shall collect a fee of \$275. If a first appearance is filed jointly for more than one defendant or respondent, the clerk shall collect a fee of \$275 for each of those defendants or respondents.

(d) If the amount claimed or in controversy is \$500,000 or more, and less than \$1 million, the clerk of the circuit court shall collect a fee of \$325. If a first appearance is filed jointly for more than one defendant or respondent, the clerk shall collect a fee of \$325 for each of those defendants or respondents.

(e) If the amount claimed or in controversy is \$1 million or more, the clerk of the circuit court shall collect a fee of \$375. If a first appearance is filed jointly for more than one defendant or respondent, the clerk shall collect a fee of \$375 for each of those defendants or respondents.

(4) The Chief Justice of the Supreme Court by order may provide for exemptions from the fees established under subsections (2) and (3) of this section if exemptions are needed for the equitable imposition of those fees.

[4] (5) 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.

(6)(a) Except as otherwise provided by law, at the time of filing in the circuit court of a complaint or other pleading or motion for the purpose of commencing an action or other civil proceeding, including an appeal, that is not subject to a fee under subsections (1) to (5) of this 2010 Act, the clerk of the circuit court shall collect a fee of \$117 for each named plaintiff, appellant or moving party. In addition, if more than one defendant or respondent is named the clerk shall collect a fee of \$117 apiece for the second, third and subsequent defendants or respondents named in the pleading.

(b) At the time of filing in the circuit court of an answer or other first appearance in a proceeding subject to a fee under paragraph (a) of this subsection, the clerk shall collect a fee of \$117. If a first appearance is filed jointly for more than one defendant or respondent, the clerk shall collect a fee of \$117 for each of those defendants or respondents.

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

(8) For purposes of this section, the amount in controversy in an action or other proceeding includes:

(a) The value of property claimed in actions for the recovery of specific personal property, and the damages for the detention of the property.

(b) Any penalty or forfeiture provided by statute or arising out of contract.

(c) The amount claimed for a lien on personal property in an action to enforce or foreclose the lien.

(d) The money, or the value of property, deposited or secured in an interpleader action.

[(6)] **(9)** 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)] **(10)** 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)] **subsections (1) to (3)** of this section must include in the caption of the pleading a statement of the amount claimed.

[(8)] **(11)** 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)] **(12)** 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 29. ORS 21.110, as amended by section 16, chapter 659, Oregon Laws 2009, and section 37c, chapter 885, Oregon Laws 2009, is amended to read:

21.110. [(1) *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 \$107 as a flat and uniform filing fee. 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 \$107 as a flat and uniform filing fee.*]

[(2) *In the following actions, the clerk of the circuit court shall collect the sum of \$68 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 \$68 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) 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.]

[(4) 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.]

[(5) 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.]

[(6) 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) of this section must include in the caption of the pleading the following words: "Claim of not more than \$10,000."]

[(7) 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.]

[(8) 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.]

(1) Except as otherwise provided by law, at the time of filing of a complaint or other pleading or motion in the circuit court for the purpose of commencing an action or other civil proceeding, the clerk of the circuit court shall collect a fee of \$78 from the party filing the pleading or motion if the amount claimed or in controversy does not exceed \$10,000, without regard to the number of parties named in the pleading or motion. The clerk shall collect the same fee for each answer or other first appearance filed in the action or proceeding.

(2)(a) Except as otherwise provided by law, at the time of filing of a complaint or other pleading or motion in the circuit court for the purpose of commencing an action or other civil proceeding, the clerk of the circuit court shall collect the following fees:

(A) If the amount claimed or in controversy is more than \$10,000, and less than \$50,000, the clerk of the circuit court shall collect a fee of \$117 for each named plaintiff, appellant or moving party. In addition, if more than one defendant or respondent is named the clerk shall collect a fee of \$117 apiece for the second, third and subsequent defendants or respondents named in the pleading.

(B) If the amount claimed or in controversy is \$50,000 or more, and less than \$150,000, the clerk of the circuit court shall collect a fee of \$225 for each named plaintiff, appellant or moving party. In addition, if more than one defendant or respondent is named the clerk

shall collect a fee of \$225 apiece for the second, third and subsequent defendants or respondents named in the pleading.

(C) If the amount claimed or in controversy is \$150,000 or more, and less than \$500,000, the clerk of the circuit court shall collect a fee of \$275 for each named plaintiff, appellant or moving party. In addition, if more than one defendant or respondent is named the clerk shall collect a fee of \$275 apiece for the second, third and subsequent defendants or respondents named in the pleading.

(D) If the amount claimed or in controversy is \$500,000 or more, and less than \$1 million, the clerk of the circuit court shall collect a fee of \$325 for each named plaintiff, appellant or moving party. In addition, if more than one defendant or respondent is named the clerk shall collect a fee of \$325 apiece for the second, third and subsequent defendants or respondents named in the pleading.

(E) If the amount claimed or in controversy is \$1 million or more, the clerk of the circuit court shall collect a fee of \$375 for each named plaintiff, appellant or moving party. In addition, if more than one defendant or respondent is named the clerk shall collect a fee of \$375 apiece for the second, third and subsequent defendants or respondents named in the pleading.

(b) If at any time a plaintiff, appellant or moving party files an amended pleading that names one or more additional parties to a proceeding subject to a fee under paragraph (a) of this subsection, the clerk of the circuit court shall collect an additional fee that is equal to the difference between the fee that was paid and the fee that would have been collected under paragraph (a) of this subsection if the party or parties had been named in the original pleading.

(3) Except as otherwise provided by law, at the time of filing in the circuit court of an answer or other first appearance in a proceeding subject to a fee under subsection (2) of this section, the clerk shall collect the following fees:

(a) If the amount claimed or in controversy is more than \$10,000, and less than \$50,000, the clerk of the circuit court shall collect a fee of \$117. If a first appearance is filed jointly for more than one defendant or respondent, the clerk shall collect a fee of \$117 for each of those defendants or respondents.

(b) If the amount claimed or in controversy is \$50,000 or more, and less than \$150,000, the clerk of the circuit court shall collect a fee of \$225. If a first appearance is filed jointly for more than one defendant or respondent, the clerk shall collect a fee of \$225 for each of those defendants or respondents.

(c) If the amount claimed or in controversy is \$150,000 or more, and less than \$500,000, the clerk of the circuit court shall collect a fee of \$275. If a first appearance is filed jointly for more than one defendant or respondent, the clerk shall collect a fee of \$275 for each of those defendants or respondents.

(d) If the amount claimed or in controversy is \$500,000 or more, and less than \$1 million, the clerk of the circuit court shall collect a fee of \$325. If a first appearance is filed jointly for more than one defendant or respondent, the clerk shall collect a fee of \$325 for each of those defendants or respondents.

(e) If the amount claimed or in controversy is \$1 million or more, the clerk of the circuit court shall collect a fee of \$375. If a first appearance is filed jointly for more than one defendant or respondent, the clerk shall collect a fee of \$375 for each of those defendants or respondents.

(4) The Chief Justice of the Supreme Court by order may provide for exemptions from the fees established under subsections (2) and (3) of this section if exemptions are needed for the equitable imposition of those fees.

(5) 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.

(6)(a) Except as otherwise provided by law, at the time of filing in the circuit court of a complaint or other pleading or motion for the purpose of commencing an action or other civil proceeding, including an appeal, that is not subject to a fee under subsections (1) to (5) of this 2010 Act, the clerk of the circuit court shall collect a fee of \$117 for each named plaintiff, appellant or moving party. In addition, if more than one defendant or respondent is named the clerk shall collect a fee of \$117 apiece for the second, third and subsequent defendants or respondents named in the pleading.

(b) At the time of filing in the circuit court of an answer or other first appearance in a proceeding subject to a fee under paragraph (a) of this subsection, the clerk shall collect a fee of \$117. If a first appearance is filed jointly for more than one defendant or respondent, the clerk shall collect a fee of \$117 for each of those defendants or respondents.

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

(8) For purposes of this section, the amount in controversy in an action or other proceeding includes:

(a) The value of property claimed in actions for the recovery of specific personal property, and the damages for the detention of the property.

(b) Any penalty or forfeiture provided by statute or arising out of contract.

(c) The amount claimed for a lien on personal property in an action to enforce or foreclose the lien.

(d) The money, or the value of property, deposited or secured in an interpleader action.

(9) 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.

(10) Any plaintiff, appellant, moving party, defendant or respondent that files an action or appearance that is subject to the filing fees established under subsections (1) to (3) of this section must include in the caption of the pleading a statement of the amount claimed.

(11) 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.

(12) 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 30. The amendments to ORS 21.110 by sections 28 and 29 of this 2010 Act become operative May 1, 2010.

SECTION 30a. Section 15, chapter 659, Oregon Laws 2009, is amended to read:

Sec. 15. (1) The amendments to ORS 21.110 by section 14 [of this 2009 Act], **chapter 659, Oregon Laws 2009**, apply only to civil actions, suits and proceedings filed on or after October 1, 2009, and before July 1, 2011.

(2) The amendments to ORS 21.110 by sections 28 and 29 of this 2010 Act apply only to civil actions, suits and proceedings filed on or after May 1, 2010, and before July 1, 2011.

[2] (3) All fees imposed pursuant to the amendments to ORS 21.110 by section 14 [of this 2009 Act], **chapter 659, Oregon Laws 2009, and by sections 28 and 29 of this 2010 Act** shall be deposited in the Judicial System Surcharge Account.

[3] (4) The collections and revenue management program established under ORS 1.204 may not be reimbursed under ORS 1.204 from fees imposed pursuant to the amendments to ORS 21.110 by section 14 [of this 2009 Act], **chapter 659, Oregon Laws 2009, and by sections 28 and 29 of this 2010 Act.**

SECTION 31. ORS 21.110, as amended by section 16, chapter 659, Oregon Laws 2009, section 37c, chapter 885, Oregon Laws 2009, and section 29 of this 2010 Act, is amended to read:

21.110. [(1) Except as otherwise provided by law, at the time of filing of a complaint or other pleading or motion in the circuit court for the purpose of commencing an action or other civil proceeding, the clerk of the circuit court shall collect a fee of \$78 from the party filing the pleading or motion if the amount claimed or in controversy does not exceed \$10,000, without regard to the number of parties named in the pleading or motion. The clerk shall collect the same fee for each answer or other first appearance filed in the action or proceeding.]

[(2)(a) Except as otherwise provided by law, at the time of filing of a complaint or other pleading or motion in the circuit court for the purpose of commencing an action or other civil proceeding, the clerk of the circuit court shall collect the following fees:]

[(A) If the amount claimed or in controversy is more than \$10,000, and less than \$50,000, the clerk of the circuit court shall collect a fee of \$117 for each named plaintiff, appellant or moving party. In addition, if more than one defendant or respondent is named the clerk shall collect a fee of \$117 apiece for the second, third and subsequent defendants or respondents named in the pleading.]

[(B) If the amount claimed or in controversy is \$50,000 or more, and less than \$150,000, the clerk of the circuit court shall collect a fee of \$225 for each named plaintiff, appellant or moving party. In addition, if more than one defendant or respondent is named the clerk shall collect a fee of \$225 apiece for the second, third and subsequent defendants or respondents named in the pleading.]

[(C) If the amount claimed or in controversy is \$150,000 or more, and less than \$500,000, the clerk of the circuit court shall collect a fee of \$275 for each named plaintiff, appellant or moving party. In addition, if more than one defendant or respondent is named the clerk shall collect a fee of \$275 apiece for the second, third and subsequent defendants or respondents named in the pleading.]

[(D) If the amount claimed or in controversy is \$500,000 or more, and less than \$1 million, the clerk of the circuit court shall collect a fee of \$325 for each named plaintiff, appellant or moving party. In addition, if more than one defendant or respondent is named the clerk shall collect a fee of \$325 apiece for the second, third and subsequent defendants or respondents named in the pleading.]

[(E) If the amount claimed or in controversy is \$1 million or more, the clerk of the circuit court shall collect a fee of \$375 for each named plaintiff, appellant or moving party. In addition, if more than one defendant or respondent is named the clerk shall collect a fee of \$375 apiece for the second, third and subsequent defendants or respondents named in the pleading.]

[(b) If at any time a plaintiff, appellant or moving party files an amended pleading that names one or more additional parties to a proceeding subject to a fee under paragraph (a) of this subsection, the clerk of the circuit court shall collect an additional fee that is equal to the difference between the fee that was paid and the fee that would have been collected under paragraph (a) of this subsection if the party or parties had been named in the original pleading.]

[(3) Except as otherwise provided by law, at the time of filing in the circuit court of an answer or other first appearance in a proceeding subject to a fee under subsection (2) of this section, the clerk shall collect the following fees:]

[(a) If the amount claimed or in controversy is more than \$10,000, and less than \$50,000, the clerk of the circuit court shall collect a fee of \$117. If a first appearance is filed jointly for more than one defendant or respondent, the clerk shall collect a fee of \$117 for each of those defendants or respondents.]

[(b) If the amount claimed or in controversy is \$50,000 or more, and less than \$150,000, the clerk of the circuit court shall collect a fee of \$225. If a first appearance is filed jointly for more than one defendant or respondent, the clerk shall collect a fee of \$225 for each of those defendants or respondents.]

[(c) If the amount claimed or in controversy is \$150,000 or more, and less than \$500,000, the clerk of the circuit court shall collect a fee of \$275. If a first appearance is filed jointly for more than one defendant or respondent, the clerk shall collect a fee of \$275 for each of those defendants or respondents.]

[(d) If the amount claimed or in controversy is \$500,000 or more, and less than \$1 million, the clerk of the circuit court shall collect a fee of \$325. If a first appearance is filed jointly for more than one defendant or respondent, the clerk shall collect a fee of \$325 for each of those defendants or respondents.]

[(e) If the amount claimed or in controversy is \$1 million or more, the clerk of the circuit court shall collect a fee of \$375. If a first appearance is filed jointly for more than one defendant or respondent, the clerk shall collect a fee of \$375 for each of those defendants or respondents.]

[(4) The Chief Justice of the Supreme Court by order may provide for exemptions from the fees established under subsections (2) and (3) of this section if exemptions are needed for the equitable imposition of those fees.]

[(5) 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.]

[(6)(a) Except as otherwise provided by law, at the time of filing in the circuit court of a complaint or other pleading or motion for the purpose of commencing an action or other civil proceeding, including an appeal, that is not subject to a fee under subsections (1) to (5) of this 2010 Act, the clerk of the circuit court shall collect a fee of \$117 for each named plaintiff, appellant or moving party. In addition, if more than one defendant or respondent is named the clerk shall collect a fee of \$117 apiece for the second, third and subsequent defendants or respondents named in the pleading.]

[(b) At the time of filing in the circuit court of an answer or other first appearance in a proceeding subject to a fee under paragraph (a) of this subsection, the clerk shall collect a fee of \$117. If a first appearance is filed jointly for more than one defendant or respondent, the clerk shall collect a fee of \$117 for each of those defendants or respondents.]

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

[(8) For purposes of this section, the amount in controversy in an action or other proceeding includes:]

[(a) The value of property claimed in actions for the recovery of specific personal property, and the damages for the detention of the property.]

[(b) Any penalty or forfeiture provided by statute or arising out of contract.]

[(c) The amount claimed for a lien on personal property in an action to enforce or foreclose the lien.]

[(d) The money, or the value of property, deposited or secured in an interpleader action.]

[(9) 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.]

[(10) Any plaintiff, appellant, moving party, defendant or respondent that files an action or appearance that is subject to the filing fees established under subsection (1) to (3) of this section must include in the caption of the pleading a statement of the amount claimed.]

[(11) 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.]

[(12) 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.]

(1) 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 \$107 as a flat and uniform filing fee. 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 \$107 as a flat and uniform filing fee.

(2) In the following actions, the clerk of the circuit court shall collect the sum of \$68 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 \$68 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) 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.

(4) 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.

(5) 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.

(6) 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) of this section must include in the caption of the pleading the following words: "Claim of not more than \$10,000."

- (7) **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.**
- (8) **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 32. Section 17, chapter 659, Oregon Laws 2009, is amended to read:

Sec. 17. The amendments to ORS 21.110 by [section 16 of this 2009 Act] **section 31 of this 2010 Act** become operative July 1, 2011.

SECTION 32a. Section 37d, chapter 885, Oregon Laws 2009, is repealed.

SECTION 33. ORS 21.480 is amended to read:

21.480. (1) In all counties wherein legal representation is provided for the poor without fee by a nonprofit legal aid program operating under the Legal Services Program established pursuant to ORS 9.572, the clerk of the circuit court shall collect the fees provided for in subsection (2) of this section to assist in defraying the operating costs of the legal aid program and to fund mediation programs offered through the State Department of Agriculture. The fees provided for in subsection (2) of this section are in addition to all other fees collected by the clerk of the court and shall be collected by the clerk in the same manner that other fees are collected by the clerk.

(2) The clerk shall collect the following fees from the plaintiff or other moving party in each civil suit, action or proceeding in the circuit court when the plaintiff or party files the first document in the suit, action or proceeding, and from a defendant or respondent when the defendant or respondent files an appearance in the suit, action or proceeding:

(a) \$10.50, for filings in the small claims department of a circuit court.

(b) \$20, upon the filing of a complaint that is subject to the filing fee established under ORS 105.130 (2). If the defendant demands a trial, the clerk shall collect a fee of \$41 from the defendant, and an additional fee of \$23 from the plaintiff. In no event shall the plaintiff in an action subject to the filing fee established under ORS 105.130 be required to pay a total fee of more than \$43 under the provisions of this subsection.

(c) \$35, if the action, suit or proceeding is subject to the filing fees established by ORS 21.111.

(d) \$32, if the action, suit or proceeding is subject to the filing fees established by ORS 21.110 [2] (1).

(e) \$41, for any other filings in a circuit court not specifically provided for in this subsection, including all probate proceedings, protective proceedings under ORS chapter 125, adoption proceedings and change of name proceedings.

(3) In addition to the fees provided for in ORS 21.010, the State Court Administrator shall collect a fee of \$58 from an appellant or petitioner whenever a filing fee is collected under ORS 21.010 and a fee of \$18 from each respondent whenever an appearance fee is collected under ORS 21.010.

(4) All fees collected by the clerk under this section shall be deposited with the State Court Administrator. All fees collected under this section shall be distributed in the manner provided by ORS 9.574.

(5) Ten percent of the funds deposited with the State Court Administrator under this section shall be transferred by the State Court Administrator on a monthly basis to the State Department of Agriculture, until such time as the amount specified under subsection (6) of this section has been transferred to the State Department of Agriculture for the biennium. Moneys transferred to the

State Department of Agriculture under this section are continuously appropriated to the department and may be used by the department only for the purpose of funding mediation programs established by the department. Moneys appropriated to the department under this subsection may not be used by the department to fund the costs of conducting individual farm credit mediations. The department shall consult with the director of the Mark O. Hatfield School of Government in establishing and operating mediation programs funded under this subsection.

(6) The amount transferred by the State Court Administrator to the State Department of Agriculture under subsection (5) of this section may not exceed \$150,000 in any biennium.

SECTION 34. ORS 21.480, as amended by section 33 of this 2010 Act, is amended to read:

21.480. (1) In all counties wherein legal representation is provided for the poor without fee by a nonprofit legal aid program operating under the Legal Services Program established pursuant to ORS 9.572, the clerk of the circuit court shall collect the fees provided for in subsection (2) of this section to assist in defraying the operating costs of the legal aid program and to fund mediation programs offered through the State Department of Agriculture. The fees provided for in subsection (2) of this section are in addition to all other fees collected by the clerk of the court and shall be collected by the clerk in the same manner that other fees are collected by the clerk.

(2) The clerk shall collect the following fees from the plaintiff or other moving party in each civil suit, action or proceeding in the circuit court when the plaintiff or party files the first document in the suit, action or proceeding, and from a defendant or respondent when the defendant or respondent files an appearance in the suit, action or proceeding:

(a) \$10.50, for filings in the small claims department of a circuit court.

(b) \$20, upon the filing of a complaint that is subject to the filing fee established under ORS 105.130 (2). If the defendant demands a trial, the clerk shall collect a fee of \$41 from the defendant, and an additional fee of \$23 from the plaintiff. In no event shall the plaintiff in an action subject to the filing fee established under ORS 105.130 be required to pay a total fee of more than \$43 under the provisions of this subsection.

(c) \$35, if the action, suit or proceeding is subject to the filing fees established by ORS 21.111.

(d) \$32, if the action, suit or proceeding is subject to the filing fees established by ORS 21.110 [(1)] (2).

(e) \$41, for any other filings in a circuit court not specifically provided for in this subsection, including all probate proceedings, protective proceedings under ORS chapter 125, adoption proceedings and change of name proceedings.

(3) In addition to the fees provided for in ORS 21.010, the State Court Administrator shall collect a fee of \$58 from an appellant or petitioner whenever a filing fee is collected under ORS 21.010 and a fee of \$18 from each respondent whenever an appearance fee is collected under ORS 21.010.

(4) All fees collected by the clerk under this section shall be deposited with the State Court Administrator. All fees collected under this section shall be distributed in the manner provided by ORS 9.574.

(5) Ten percent of the funds deposited with the State Court Administrator under this section shall be transferred by the State Court Administrator on a monthly basis to the State Department of Agriculture, until such time as the amount specified under subsection (6) of this section has been transferred to the State Department of Agriculture for the biennium. Moneys transferred to the State Department of Agriculture under this section are continuously appropriated to the department and may be used by the department only for the purpose of funding mediation programs established by the department. Moneys appropriated to the department under this subsection may not be used by the department to fund the costs of conducting individual farm credit mediations. The department shall consult with the director of the Mark O. Hatfield School of Government in establishing and operating mediation programs funded under this subsection.

(6) The amount transferred by the State Court Administrator to the State Department of Agriculture under subsection (5) of this section may not exceed \$150,000 in any biennium.

SECTION 35. The amendments to ORS 21.480 by section 34 of this 2010 Act become operative July 1, 2011.

SECTION 36. ORS 36.170 is amended to read:

36.170. (1) The clerks of the circuit courts shall collect a dispute resolution surcharge at the time a civil action, suit or proceeding is filed, including appeals. The surcharge shall be collected from a plaintiff or petitioner at the time the proceeding is filed. The surcharge shall be collected from a defendant or respondent upon making appearance. The amount of the surcharge shall be:

(a) \$6, if the action, suit or proceeding is subject to the filing fees established by ORS 21.110 [(1) or (3)] **(2) to (6)**, 21.310 or any other filing fee not specifically provided for in this section.

(b) \$5, if the action, suit or proceeding is subject to the filing fees established by ORS 21.110 [(2)] **(1)** or 105.130, or if the action is filed in the small claims department of circuit court and the amount or value claimed exceeds \$1,500.

(c) \$3, if the action, suit or proceeding is subject to the filing fees established by ORS 21.111.

(d) \$2, if the action is filed in the small claims department of circuit court and the amount or value claimed does not exceed \$1,500.

(2) All surcharges collected under this section shall be deposited by the State Court Administrator into the State Treasury to the credit of the General Fund.

SECTION 37. ORS 36.170, as amended by section 19, chapter 659, Oregon Laws 2009, is amended to read:

36.170. (1) The clerks of the circuit courts shall collect a dispute resolution surcharge at the time a civil action, suit or proceeding is filed, including appeals. The surcharge shall be collected from a plaintiff or petitioner at the time the proceeding is filed. The surcharge shall be collected from a defendant or respondent upon making appearance. The amount of the surcharge shall be:

(a) \$6, if the action, suit or proceeding is subject to the filing fees established by ORS 21.110 [(1)] **(2) to (6)**, 21.310 or any other filing fee not specifically provided for in this section.

(b) \$5, if the action, suit or proceeding is subject to the filing fees established by ORS 21.110 [(2)] **(1)** or 105.130, or if the action is filed in the small claims department of circuit court and the amount or value claimed exceeds \$1,500.

(c) \$3, if the action, suit or proceeding is subject to the filing fees established by ORS 21.111.

(d) \$2, if the action is filed in the small claims department of circuit court and the amount or value claimed does not exceed \$1,500.

(2) All surcharges collected under this section shall be deposited by the State Court Administrator into the State Treasury to the credit of the General Fund.

SECTION 38. ORS 36.170, as amended by section 19, chapter 659, Oregon Laws 2009, and section 37 of this 2010 Act, is amended to read:

36.170. (1) The clerks of the circuit courts shall collect a dispute resolution surcharge at the time a civil action, suit or proceeding is filed, including appeals. The surcharge shall be collected from a plaintiff or petitioner at the time the proceeding is filed. The surcharge shall be collected from a defendant or respondent upon making appearance. The amount of the surcharge shall be:

(a) \$6, if the action, suit or proceeding is subject to the filing fees established by ORS 21.110 [(2) to (6)] **(1)**, 21.310 or any other filing fee not specifically provided for in this section.

(b) \$5, if the action, suit or proceeding is subject to the filing fees established by ORS 21.110 [(1)] **(2)** or 105.130, or if the action is filed in the small claims department of circuit court and the amount or value claimed exceeds \$1,500.

(c) \$3, if the action, suit or proceeding is subject to the filing fees established by ORS 21.111.

(d) \$2, if the action is filed in the small claims department of circuit court and the amount or value claimed does not exceed \$1,500.

(2) All surcharges collected under this section shall be deposited by the State Court Administrator into the State Treasury to the credit of the General Fund.

SECTION 39. Section 20, chapter 659, Oregon Laws 2009, is amended to read:

Sec. 20. (1) The amendments to ORS 36.170 by section 18, **chapter 659, Oregon Laws 2009**, [of this 2009 Act] become operative October 1, 2009.

(2) The amendments to ORS 36.170 by [section 19 of this 2009 Act] **section 38 of this 2010 Act** become operative July 1, 2011.

SECTION 40. ORS 36.615 is amended to read:

36.615. (1)(a) Except as otherwise provided in ORS 36.730, an application for judicial relief under ORS 36.600 to 36.740 must be made by petition to the court. Except as otherwise provided in this subsection, a person filing the first petition relating to an agreement to arbitrate or relating to an arbitration proceeding must pay the filing fee provided by ORS 21.110 [(1)] (6) for plaintiffs, and persons responding to the petition must pay the filing fee provided by ORS 21.110 [(1)] (6) for defendants. If subsequent petitions are filed relating to the same agreement to arbitrate or arbitration proceeding, no additional filing fees shall be required of the parties.

(b) If the first petition relating to an arbitration proceeding is a petition to seek confirmation, vacation, modification or correction of an award under ORS 36.700, 36.705 or 36.710, the person filing the petition must pay a fee of \$39, and a person filing an appearance in opposition to the petition must pay a filing fee of \$39.

(c) If a civil action is pending relating to the same dispute that is the subject of the arbitration, and filing fees were paid for that action under ORS 21.110, filing fees may not be charged under this subsection for the filing of any petition under ORS 36.600 to 36.740.

(2) Unless a civil action involving the agreement to arbitrate is pending, notice of a first petition to the court under ORS 36.600 to 36.740, must be served in the manner provided by ORCP 7 D. Otherwise, notice of the petition must be given in the manner provided by ORCP 9.

SECTION 41. ORS 36.615, as amended by section 40 of this 2010 Act, is amended to read:

36.615. (1)(a) Except as otherwise provided in ORS 36.730, an application for judicial relief under ORS 36.600 to 36.740 must be made by petition to the court. Except as otherwise provided in this subsection, a person filing the first petition relating to an agreement to arbitrate or relating to an arbitration proceeding must pay the filing fee provided by ORS 21.110 [(6)] (1) for plaintiffs, and persons responding to the petition must pay the filing fee provided by ORS 21.110 [(6)] (1) for defendants. If subsequent petitions are filed relating to the same agreement to arbitrate or arbitration proceeding, no additional filing fees shall be required of the parties.

(b) If the first petition relating to an arbitration proceeding is a petition to seek confirmation, vacation, modification or correction of an award under ORS 36.700, 36.705 or 36.710, the person filing the petition must pay a fee of \$39, and a person filing an appearance in opposition to the petition must pay a filing fee of \$39.

(c) If a civil action is pending relating to the same dispute that is the subject of the arbitration, and filing fees were paid for that action under ORS 21.110, filing fees may not be charged under this subsection for the filing of any petition under ORS 36.600 to 36.740.

(2) Unless a civil action involving the agreement to arbitrate is pending, notice of a first petition to the court under ORS 36.600 to 36.740, must be served in the manner provided by ORCP 7 D. Otherwise, notice of the petition must be given in the manner provided by ORCP 9.

SECTION 42. The amendments to ORS 36.615 by section 41 of this 2010 Act become operative July 1, 2011.

SECTION 43. ORS 130.355 is amended to read:

130.355. (1) At any time after the death of a settlor of a trust described in ORS 130.350 (2), a trustee of the trust may petition the probate court to determine the claims of creditors of the settlor. A petition under this section must include all of the following information to the extent known by the trustee:

(a) The settlor's name, the settlor's date of birth, the settlor's date and place of death and the last four digits of the settlor's Social Security number.

(b) The name of the trustee.

(c) The address at which claims must be presented.

(d) The name of the trust, if any, and the date of the trust, including the dates of any amendments.

(e) The facts establishing venue in the county where the petition is being filed.

(2) The clerk of the court shall charge and collect in advance from the trustee the filing fee required from a plaintiff under ORS 21.110 [(1)] (6).

- (3) A proceeding under this section may be brought only:
 - (a) In the county where the settlor had domicile or a place of abode at the time of death;
 - (b) In any county where assets of the trust were located at the time of death or are located at the time the proceeding is commenced; or
 - (c) In the county where the settlor died.

(4) The court has personal jurisdiction over a trustee that files a petition under this section, whether the trustee is a resident or nonresident of this state, for the purposes of any proceeding relating to the trust that may be instituted by an interested person.

SECTION 44. ORS 130.355, as amended by section 43 of this 2010 Act, is amended to read:

130.355. (1) At any time after the death of a settlor of a trust described in ORS 130.350 (2), a trustee of the trust may petition the probate court to determine the claims of creditors of the settlor. A petition under this section must include all of the following information to the extent known by the trustee:

(a) The settlor's name, the settlor's date of birth, the settlor's date and place of death and the last four digits of the settlor's Social Security number.

(b) The name of the trustee.

(c) The address at which claims must be presented.

(d) The name of the trust, if any, and the date of the trust, including the dates of any amendments.

(e) The facts establishing venue in the county where the petition is being filed.

(2) The clerk of the court shall charge and collect in advance from the trustee the filing fee required from a plaintiff under ORS 21.110 [(6)] (1).

(3) A proceeding under this section may be brought only:

(a) In the county where the settlor had domicile or a place of abode at the time of death;

(b) In any county where assets of the trust were located at the time of death or are located at the time the proceeding is commenced; or

(c) In the county where the settlor died.

(4) The court has personal jurisdiction over a trustee that files a petition under this section, whether the trustee is a resident or nonresident of this state, for the purposes of any proceeding relating to the trust that may be instituted by an interested person.

SECTION 45. The amendments to ORS 130.355 by section 44 of this 2010 Act become operative July 1, 2011.

SECTION 46. ORS 130.400 is amended to read:

130.400. (1) The trustee may compromise a claim against the trust estate.

(2) A claim presented to a trustee under ORS 130.350 to 130.450 shall be considered allowed as presented unless within 60 days after the date of presentment of the claim the trustee mails or delivers a notice of disallowance of the claim in whole or in part to the claimant and to the attorney of the claimant if the claimant has an attorney.

(3) A notice of disallowance of a claim shall inform the claimant that the claim has been disallowed in whole or in part and, to the extent disallowed, will be barred unless the claimant requests a summary determination or brings an action in the manner provided by subsection (4) of this section.

(4) If a trustee disallows a claim submitted under ORS 130.350 to 130.450 in whole or in part, the claimant, within 30 days after the date of mailing or delivery of the notice of disallowance, may:

(a) File a request for summary determination of the claim in the probate court, with proof of service of a copy of the request upon the trustee or the attorney of the trustee; or

(b) Commence a separate action against the trustee on the claim in the probate court.

(5) If the claimant fails either to request a summary determination or commence a separate action as provided in subsection (4) of this section, the claim is barred to the extent the claim has been disallowed by the trustee.

(6) If a claimant prevails in a proceeding or action under subsection (4) of this section, the claim shall be allowed or judgment entered in the full amount determined to be due to the claimant. The

claim or judgment shall be paid from the assets of the trust estate only to the extent that funds are available after payment of other claims with higher priority under ORS 130.425.

(7) If the claimant files a request for summary determination of a claim under subsection (4) of this section, the trustee may notify the claimant in writing that the claimant must commence a separate action against the trustee on the claim within 60 days after the claimant receives the notice. Notice under this subsection must be given by the trustee within 30 days after the request for summary determination is served on the trustee or the attorney of the trustee. If the claimant fails to commence a separate action within the time allowed, the claim is barred to the extent the claim has been disallowed by the trustee.

(8) In a proceeding for summary determination under this section:

(a) The trustee shall make response to the claim as though the claim were a complaint filed in an action.

(b) The court shall hear the matter without a jury, after notice to the claimant and trustee. The court shall determine the claim in a summary manner, and shall make an order allowing or disallowing the claim in whole or in part.

(c) No appeal may be taken from the order of the court made in a proceeding for summary determination under this section.

(9) If a civil action is commenced under subsection (4) of this section, a trustee, or beneficiary, may petition the court to approve a proposed disposition of claims or to provide instructions on the treatment of claims.

(10) A claimant filing a request for summary determination of a claim under subsection (4) of this section must pay the filing fee required of a defendant or respondent under ORS 21.110 [(1)] (6) and other fees applicable to civil actions in circuit court.

SECTION 47. ORS 130.400, as amended by section 46 of this 2010 Act, is amended to read:

130.400. (1) The trustee may compromise a claim against the trust estate.

(2) A claim presented to a trustee under ORS 130.350 to 130.450 shall be considered allowed as presented unless within 60 days after the date of presentment of the claim the trustee mails or delivers a notice of disallowance of the claim in whole or in part to the claimant and to the attorney of the claimant if the claimant has an attorney.

(3) A notice of disallowance of a claim shall inform the claimant that the claim has been disallowed in whole or in part and, to the extent disallowed, will be barred unless the claimant requests a summary determination or brings an action in the manner provided by subsection (4) of this section.

(4) If a trustee disallows a claim submitted under ORS 130.350 to 130.450 in whole or in part, the claimant, within 30 days after the date of mailing or delivery of the notice of disallowance, may:

(a) File a request for summary determination of the claim in the probate court, with proof of service of a copy of the request upon the trustee or the attorney of the trustee; or

(b) Commence a separate action against the trustee on the claim in the probate court.

(5) If the claimant fails either to request a summary determination or commence a separate action as provided in subsection (4) of this section, the claim is barred to the extent the claim has been disallowed by the trustee.

(6) If a claimant prevails in a proceeding or action under subsection (4) of this section, the claim shall be allowed or judgment entered in the full amount determined to be due to the claimant. The claim or judgment shall be paid from the assets of the trust estate only to the extent that funds are available after payment of other claims with higher priority under ORS 130.425.

(7) If the claimant files a request for summary determination of a claim under subsection (4) of this section, the trustee may notify the claimant in writing that the claimant must commence a separate action against the trustee on the claim within 60 days after the claimant receives the notice. Notice under this subsection must be given by the trustee within 30 days after the request for summary determination is served on the trustee or the attorney of the trustee. If the claimant fails to commence a separate action within the time allowed, the claim is barred to the extent the claim has been disallowed by the trustee.

(8) In a proceeding for summary determination under this section:

(a) The trustee shall make response to the claim as though the claim were a complaint filed in an action.

(b) The court shall hear the matter without a jury, after notice to the claimant and trustee. The court shall determine the claim in a summary manner, and shall make an order allowing or disallowing the claim in whole or in part.

(c) No appeal may be taken from the order of the court made in a proceeding for summary determination under this section.

(9) If a civil action is commenced under subsection (4) of this section, a trustee, or beneficiary, may petition the court to approve a proposed disposition of claims or to provide instructions on the treatment of claims.

(10) A claimant filing a request for summary determination of a claim under subsection (4) of this section must pay the filing fee required of a defendant or respondent under ORS 21.110 [(6)] (1) and other fees applicable to civil actions in circuit court.

SECTION 48. The amendments to ORS 130.400 by section 47 of this 2010 Act become operative July 1, 2011.

SECTION 49. ORS 701.133 is amended to read:

701.133. (1) Unless otherwise provided by the Construction Contractors Board by rule, before filing a complaint under ORS 701.139, a person must send notice to the contractor that the person intends to file the complaint. The person must send the notice at least 30 days before filing the complaint. The notice must be mailed by certified mail to the last known address of the contractor as shown in board records. The board by rule may:

(a) Specify the manner in which the person may show compliance with this subsection at the time of filing the complaint.

(b) Provide that all or part of the requirements for sending a notice under this subsection may be waived if the contractor, by other means, has actual notice of the dispute with the person filing the complaint.

(2) If the notice described in subsection (1) of this section is mailed to the contractor fewer than 45 days before expiration of the time limitation under ORS 701.143 for the board to receive the complaint, the time limitation for the board to receive the complaint does not expire until 60 days after the notice is mailed.

(3) The board by rule may impose a processing fee for complaints filed under ORS 701.139. The fee amount may not exceed the amount of the filing fee provided by ORS 21.110 [(1)] (6) for a plaintiff filing a civil action in circuit court. The board may impose different processing fees for complaints processed under ORS 701.145 than for complaints processed under ORS 701.146.

(4) If the board adopts rules under subsection (3) of this section, the rules:

(a) Except as provided in paragraphs (b) and (c) of this subsection, must provide that a prevailing complainant recover processing fees as damages in the final order of the board.

(b) Must provide that the board may waive or defer all or part of the processing fee upon application by the person filing the complaint that shows the person is unable to pay all or part of the fee. The application must be made under oath and notarized. The application must show the average monthly income and expenses of the complainant, assets and liabilities of the complainant and any other information required by board rule.

(c) May provide for the processing fee to be waived for all complaints that are based on the furnishing of labor by a complainant to a contractor. The board may provide for processing fee waiver under this paragraph only if, in the opinion of the board, a majority of complainants who file complaints based on the furnishing of labor to contractors are eligible for fee waivers as described in paragraph (b) of this subsection.

SECTION 50. ORS 701.133, as amended by section 49 of this 2010 Act, is amended to read:

701.133. (1) Unless otherwise provided by the Construction Contractors Board by rule, before filing a complaint under ORS 701.139, a person must send notice to the contractor that the person intends to file the complaint. The person must send the notice at least 30 days before filing the

complaint. The notice must be mailed by certified mail to the last known address of the contractor as shown in board records. The board by rule may:

(a) Specify the manner in which the person may show compliance with this subsection at the time of filing the complaint.

(b) Provide that all or part of the requirements for sending a notice under this subsection may be waived if the contractor, by other means, has actual notice of the dispute with the person filing the complaint.

(2) If the notice described in subsection (1) of this section is mailed to the contractor fewer than 45 days before expiration of the time limitation under ORS 701.143 for the board to receive the complaint, the time limitation for the board to receive the complaint does not expire until 60 days after the notice is mailed.

(3) The board by rule may impose a processing fee for complaints filed under ORS 701.139. The fee amount may not exceed the amount of the filing fee provided by ORS 21.110 [(6)] (1) for a plaintiff filing a civil action in circuit court. The board may impose different processing fees for complaints processed under ORS 701.145 than for complaints processed under ORS 701.146.

(4) If the board adopts rules under subsection (3) of this section, the rules:

(a) Except as provided in paragraphs (b) and (c) of this subsection, must provide that a prevailing complainant recover processing fees as damages in the final order of the board.

(b) Must provide that the board may waive or defer all or part of the processing fee upon application by the person filing the complaint that shows the person is unable to pay all or part of the fee. The application must be made under oath and notarized. The application must show the average monthly income and expenses of the complainant, assets and liabilities of the complainant and any other information required by board rule.

(c) May provide for the processing fee to be waived for all complaints that are based on the furnishing of labor by a complainant to a contractor. The board may provide for processing fee waiver under this paragraph only if, in the opinion of the board, a majority of complainants who file complaints based on the furnishing of labor to contractors are eligible for fee waivers as described in paragraph (b) of this subsection.

SECTION 51. The amendments to ORS 701.133 by section 50 of this 2010 Act become operative July 1, 2011.

OREGON WIRELESS INTEROPERABILITY NETWORK

SECTION 52. The duties, functions and powers of the Department of State Police relating to the Oregon Interoperable Communication Plan, the State Interoperability Executive Council and ORS 403.450, 403.455 and 403.460 are imposed upon, transferred to and vested in the Department of Transportation.

SECTION 53. (1) The Superintendent of State Police shall:

(a) Deliver to the Director of Transportation all records and property within the jurisdiction of the superintendent that relate to the duties, functions and powers transferred by section 52 of this 2010 Act; and

(b) Transfer to the Department of Transportation those employees engaged primarily in the exercise of the duties, functions and powers transferred by section 52 of this 2010 Act.

(2) The Director of Transportation 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 transferred by section 52 of this 2010 Act, 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 of State Police and the Department of Transportation relating to transfers of records, property and employees under this section, and the Governor's decision is final.

SECTION 54. (1) The unexpended balances of amounts authorized to be expended by the Department of State Police for the biennium beginning July 1, 2009, from revenues dedicated,

continuously appropriated, appropriated or otherwise made available for the purpose of administering and enforcing the duties, functions and powers transferred by section 52 of this 2010 Act are transferred to and are available for expenditure by the Department of Transportation for the biennium beginning July 1, 2009, for the purpose of administering and enforcing the duties, functions and powers transferred by section 52 of this 2010 Act.

(2) The unexpended balances of amounts authorized to be expended by the Department of State Police for a six-year period beginning July 1, 2007, or July 1, 2009, from revenues dedicated, continuously appropriated, appropriated or otherwise made available for the purpose of administering and enforcing the duties, functions and powers transferred by section 52 of this 2010 Act by acquiring land and by acquiring, planning, constructing, altering, repairing, furnishing and equipping buildings and facilities are transferred to and are available for expenditure by the Department of Transportation for the six-year period specified for the purpose of administering and enforcing the duties, functions and powers transferred by section 52 of this 2010 Act.

(3) The expenditure classifications, if any, established by Acts authorizing or limiting expenditures by the Department of State Police remain applicable to expenditures by the Department of Transportation under this section.

SECTION 55. The transfer of duties, functions and powers to the Department of Transportation by section 52 of this 2010 Act does not affect any action, proceeding or prosecution involving or with respect to the duties, functions and powers begun before and pending at the time of the transfer, except that the Department of Transportation is substituted for the Department of State Police in the action, proceeding or prosecution.

SECTION 56. (1) Nothing in sections 52 to 58 of this 2010 Act relieves a person of a liability, duty or obligation accruing under or with respect to the duties, functions and powers transferred by section 52 of this 2010 Act. The Department of Transportation may undertake the collection or enforcement of the liabilities, duties or obligations.

(2) The rights and obligations of the Department of State Police legally incurred under contracts, leases and business transactions executed, entered into or begun before the effective date of this 2010 Act accruing under or with respect to the duties, functions and powers transferred by section 52 of this 2010 Act are transferred to the Department of Transportation. For the purpose of succession to these rights and obligations, the Department of Transportation is a continuation of the Department of State Police and not a new authority.

SECTION 57. Notwithstanding the transfer of duties, functions and powers by section 52 of this 2010 Act, the rules of the Department of State Police with respect to the duties, functions or powers that are in effect on the effective date of this 2010 Act continue in effect until superseded or repealed by rules of the Department of Transportation. References in the rules of the Department of State Police to the Department of State Police or an officer or employee of the Department of State Police are considered to be references to the Department of Transportation or an officer or employee of the Department of Transportation.

SECTION 58. Whenever, in any uncodified law or resolution of the Legislative Assembly or in any rule, document, record or proceeding authorized by the Legislative Assembly, in the context of the duties, functions and powers transferred by section 52 of this 2010 Act, reference is made to the Department of State Police, or an officer or employee of the Department of State Police, whose duties, functions or powers are transferred by section 52 of this 2010 Act, the reference is considered to be a reference to the Department of Transportation or an officer or employee of the Department of Transportation who by sections 52 to 58 of this 2010 Act is charged with carrying out the duties, functions and powers.

SECTION 59. ORS 403.450 is amended to read:

403.450. (1) The State Interoperability Executive Council is created within the Department of [State Police] **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' 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 [*Superintendent of State Police*] **Director of Transportation** may be reimbursed from funds available to the Department of [*State Police*] **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.

SECTION 60. ORS 403.455 is amended to read:

403.455. The State Interoperability Executive Council created under ORS 403.450 shall:

(1) Work with public safety agencies in the state to develop a Public Safety Wireless Infrastructure Replacement Plan as provided under section 2, chapter 825, Oregon Laws 2005.

(2) Develop an Oregon Interoperable Communication Plan. The goal of the plan shall be to achieve statewide interoperability within six years of September 2, 2005. In developing the plan, the council shall:

(a) Recommend strategies to improve wireless interoperability among state and local public safety agencies;

(b) Develop standards to promote consistent development of existing and future wireless communications infrastructures;

(c) Identify immediate short-term technological and policy solutions to tie existing wireless communications infrastructures together into an interoperable communications system;

(d) Develop long-term technological and policy recommendations to establish a statewide public safety radio system to improve emergency response and day-to-day public safety operations; and

(e) Develop recommendations for legislation and for the development of state and local policies to promote wireless interoperability in Oregon.

(3) Approve, subject to approval by the [*Superintendent of State Police*] **Director of Transportation**, investments by the State of Oregon in public safety communications systems.

(4) Coordinate state and local activities related to obtaining federal grants for support of interoperability.

(5) Develop and provide technical assistance, training and, if requested, appropriate dispute resolution services to state and local agencies responsible for implementation of the Oregon Interoperable Communication Plan.

(6) Report, in the manner required by ORS 192.245, to the Legislative Assembly on or before February 1 of each odd-numbered year on the development of the Oregon Interoperable Communication Plan and the council's other activities.

(7) Adopt rules necessary to carry out its duties and powers.

SECTION 61. ORS 403.460 is amended to read:

403.460. (1) The [*Superintendent of State Police*] **Director of Transportation** shall advise the State Interoperability Executive Council on the implementation of the Oregon Interoperable Communication Plan and coordinate interoperability among all state agencies.

(2) State agencies that own or operate public safety communications systems shall coordinate their efforts and investments to achieve the statewide interoperability goal set by the council and implement the Oregon Interoperable Communication Plan approved by the [*superintendent*] **director**.

STATE DEPARTMENT OF AGRICULTURE

SECTION 62. Notwithstanding ORS 561.144, 561.150 (5) or 634.326, any provision of law limiting the use of fees described in ORS 561.144 (3) or any other provision of law directing the use of moneys deposited in the Department of Agriculture Service Fund, the amount of \$443,000 is transferred from the Department of Agriculture Service Fund to the General Fund for general governmental purposes.

CONSUMER PROTECTION

SECTION 63. Notwithstanding ORS 675.597, the amount of \$41,000 is transferred from the State Board of Licensed Social Workers Account to the General Fund for general governmental purposes.

SECTION 64. Notwithstanding ORS 670.335, 673.605 to 673.740 and 673.990, the amount of \$430,000 is transferred from the Board of Tax Practitioners Account established in the General Fund pursuant to ORS 670.335 to the General Fund for general governmental purposes.

SECTION 65. Notwithstanding ORS 678.170, the amount of \$200,000 is transferred from the Oregon State Board of Nursing Account to the General Fund for general governmental purposes.

SECTION 66. Notwithstanding ORS 656.612 and 705.145, the amount of \$500,000 is transferred from the Consumer and Business Services Fund, from moneys collected pursuant to ORS 656.612, to the General Fund for general governmental purposes.

SECTION 67. Notwithstanding ORS 656.614 and 705.145, the amount of \$500,000 is transferred from the Self-Insured Employer Adjustment Reserve within the Consumer and Business Services Fund to the General Fund for general governmental purposes.

SECTION 68. Notwithstanding ORS 756.305 and 756.360, the amount of \$2,000,000 is transferred from the Public Utility Commission Account to the General Fund for general governmental purposes.

NATURAL RESOURCES

SECTION 69. Notwithstanding ORS 830.140, the amount of \$430,000 is transferred from the Boating Safety, Law Enforcement and Facility Account to the General Fund for general governmental purposes.

SECTION 70. Notwithstanding ORS 390.555 and 802.125, the amount of \$2,200,000 is transferred from the All-Terrain Vehicle Account within the State Parks and Recreation Department Fund to the General Fund for general governmental purposes.

SECTION 71. Notwithstanding ORS 469.120 and 469.217, the amount of \$1,000,000 is transferred from the State Department of Energy Account to the General Fund for general governmental purposes.

EDUCATION

SECTION 72. Notwithstanding ORS 327.026 and 327.485, the amount of \$316,000 is transferred from the Education Cash Account to the General Fund for general governmental purposes.

SECTION 73. Notwithstanding ORS 345.080 and 345.110, the amount of \$1,000,000 is transferred from the Tuition Protection Fund to the General Fund for general governmental purposes.

SECTION 74. Notwithstanding ORS 342.430, the amount of \$346,000 is transferred from the Teacher Standards and Practices Commission Account to the General Fund for general governmental purposes.

PUBLIC SAFETY

SECTION 75. Notwithstanding ORS 180.180, the amount of \$2,973,501 is transferred from the Department of Justice Operating Account to the General Fund for general governmental purposes.

SECTION 76. Notwithstanding ORS 180.095, the amount of \$2,500,000 is transferred from the Department of Justice Protection and Education Revolving Account to the General Fund for general governmental purposes.

SECTION 77. Notwithstanding any other provision of law, the amount of \$500,000 is transferred from the Public Defense Services Account created under ORS 151.225 from moneys received under ORS 151.225 (3) to the General Fund for general governmental purposes.

ECONOMIC DEVELOPMENT

SECTION 78. Notwithstanding ORS 458.720, the amount of \$750,000 is transferred from the Community Development Incentive Project Fund from moneys consisting of loan repayments to the General Fund for general governmental purposes.

SECTION 79. Notwithstanding ORS 285B.215, the amount of \$1,000,000 is transferred from the Credit Enhancement Fund to the General Fund for general governmental purposes.

SECTION 80. Notwithstanding ORS 285B.266, the amount of \$300,000 is transferred from the Strategic Reserve Fund to the General Fund for general governmental purposes.

SECTION 81. Notwithstanding ORS 407.585, for the biennium ending June 30, 2011, moneys in the Veterans' Small Business Repair Loan Fund established by ORS 407.585 shall be used for educational benefits for veterans provided under ORS 408.010 to 408.090.

TRANSFERS

SECTION 82. The transfers, reductions of allocations and dedications of moneys described in sections 62 to 81, 83 and 84 of this 2010 Act shall be made from moneys maintained,

on the effective date of this 2010 Act, in the funds, accounts and reserves from which the transfers, reductions and dedications are made.

LABOR AND INDUSTRIES

SECTION 83. Notwithstanding ORS 651.185, the amount of \$1,600,000 is transferred from the Prevailing Wage Education and Enforcement Account to the General Fund for general governmental purposes.

DEPARTMENT OF REVENUE

SECTION 84. Notwithstanding section 7, chapter 710, Oregon Laws 2009, the amount of \$31,000,000 is transferred from the Tax Amnesty Fund to the General Fund for general governmental purposes.

SECTION 85. Sections 86 and 87 of this 2010 Act are added to and made a part of ORS 118.005 to 118.840.

SECTION 86. An estate for which the amount calculated in subsection (1) of this section is greater than the amount calculated in subsection (2) of this section shall be eligible for a refund of an amount equal to the difference between:

(1) The tax payable under this chapter with the allowance of a credit as provided in section 2, chapter 28, Oregon Laws 2008; and

(2) The tax imposed under this chapter against estates taking into account an exclusion for natural resource property pursuant to section 68, chapter 843, Oregon Laws 2007.

SECTION 87. (1) The Department of Revenue shall adopt by rule procedures for administering section 86 of this 2010 Act, including application procedures and deadlines.

(2) The department shall make the refunds required under section 86 of this 2010 Act to eligible estates following the filing of an application by an executor. The department may require the filing of an amended return and provision of additional information by an estate prior to making a refund.

SECTION 88. Sections 86 and 87 of this 2010 Act apply to estates of decedents who die on or after January 1, 2007, and before March 11, 2008.

CAPTIONS AND EMERGENCY CLAUSE

SECTION 89. The unit captions used in this 2010 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 2010 Act.

SECTION 90. This 2010 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect on its passage.

Passed by House February 24, 2010

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Chief Clerk of House

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Speaker of House

Passed by Senate February 24, 2010

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President of Senate

Received by Governor:

.....M,....., 2010

Approved:

.....M,....., 2010

.....
Governor

Filed in Office of Secretary of State:

.....M,....., 2010

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Secretary of State