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**JOINT COMMITTEE ON
WAYS AND MEANS**

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To: Ways and Means Transportation and Economic Development Subcommittee

From: Steve Bender, Legislative Fiscal Office

Date: May 6, 2013

Subject: HB 2323-A – Oregon Growth Board

Background

In the 2012 session, the Legislature passed HB 4040. That bill established the Oregon Growth Board and assigned responsibility for staffing of the Board to the Oregon Business Development Department. The Board was required to submit a report to the Legislature by January 2013 that included recommendations for implementing the functions of the Board, and proposed policies for investing and managing monies in an Oregon Growth Fund.

HB 4040 further included numerous additional provisions that have not become operational. These provisions establish the Oregon Growth Fund (OGF), establish authority for the Oregon Growth Board to manage the Oregon Growth Fund, and transfer management of the Oregon Growth Account (OGA) from the State Treasurer to the Oregon Growth Board. The bill authorized the Board to use the Oregon Growth Fund to encourage investment in and availability of capital to in-state businesses and to increase resources available to further economic development; and to use OGF monies to make investments in, and provide loans or grants to, businesses to promote economic development. The allowable use of OGA funds, currently restricted to making investments in or providing seed capital for emerging growth businesses, were also expanded to include the allowable uses for Oregon Growth Fund monies, excluding the making of grants.

The provisions listed in the prior paragraph become operative on January 2, 2014.

HB 2323-A

HB 4040 from the 2012 session repeals the above provisions on June 30, 2013. That is, the provisions are repealed before they become operative. The primary provision of HB 2323-A is to remove the June 30, 2013 repeal and allow the provisions to become operative on January 1, 2014. The Oregon Growth Board would assume management of both the OGA and the OGF. The OGA will have an estimated \$26 million available for new investments in the 2013-15 biennium under current law. The Governor's budget recommends an additional \$5 million of Lottery Funds for the OGF.

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 2323 - A

Seventy-Seventh Oregon Legislative Assembly – 2013 Regular Session
Legislative Fiscal Office

***Only Impacts on Original or Engrossed
Versions are Considered Official***

Prepared by: Kim To
Reviewed by: Steve Bender, John Borden
Date: 4/11/2013

Measure Description:

Removes the sunset on the Oregon Growth Board.

Government Unit(s) Affected:

Business Development Department (Business Oregon), Oregon State Treasurer

Local Government Mandate:

This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

Analysis:

This fiscal impact statement is for the purpose of transmitting this measure from the House Committee on Transportation and Economic Development to the Joint Committee on Ways and Means.

The bill removes the sunset on the Oregon Growth Board. The bill directs the Oregon Growth Board to use moneys in the Oregon Growth Fund to make, purchase, guarantee or hold grants and loans to further economic development in Oregon, including but not limited to traded sector businesses, businesses in the initial and follow-up phases of development, and businesses in the rural regions of Oregon. The bill provides for the funds in the Oregon Growth Account to be used to make, purchase, guarantee, or hold loans for the purpose of earning returns to the Education Stability Fund. The bill allows the board to use moneys in the Oregon Growth Account to pay the administrative costs. The Oregon Growth Board is directed to adopt rules that specify the board's permissible investments, and the activities and services in which the board may engage or provide. The board is to provide a means to evaluate the performance of investments, and report to the Legislature regarding the implementation and administration of the Oregon Growth Board and investments made by the board. Certain sections of the bill become operative on the 91st day after the date on which the 2013 legislative session adjourns sine die. The bill contains an emergency clause and takes effect on passage.

Further Analysis Required

The bill is anticipated to have a fiscal impact on the Business Development Department (Business Oregon), and the Oregon State Treasurer. The full impact is still being determined. A more complete fiscal analysis on the bill will be prepared as the measure is considered in the Joint Committee on Ways and Means.

REVENUE: No revenue impact

FISCAL: Fiscal statement issued

Action:	Do Pass as Amended, Be Printed Engrossed and Be Referred to the Committee on Ways and Means by Prior Reference
Vote:	8 - 0 - 2
Yeas:	Bentz, Cameron, Doherty, Gorsek, Lively, McKeown, Nathanson, Read
Nays:	0
Exc.:	Davis, Parrish
Prepared By:	Troy Rayburn, Administrator
Meeting Dates:	3/15, 4/8

WHAT THE MEASURE DOES: Establishes Oregon Growth Board Task Force. Specifies 10 member task force including: two appointees from the Senate President; two appointees from the Speaker of the House; four appointees from the Governor with one from banking, one from credit unions, one from managing investments, and one with small business employment experience; one appointee from the Treasurer's Office; and one appointee from the Oregon Business Development Department; Requires the task force to make recommendations to the Legislative Assembly regarding the formation, functions, duties, and powers of the Oregon Growth Board (renamed from the Oregon Growth Account Board; Adds the Fund to those funds that are not required to have the Oregon Innovation Council's review policies for investment funds; Stipulates that the Oregon Business Development Department shall provide staff support to the task force ; Repeals sections related to the abolishment and sunset date of the Oregon Growth Board.

ISSUES DISCUSSED:

- Relationship between access to capital and economic recovery
- Importance of access to capital for small businesses
- Benefit to rural economies where the unemployment rate remains high
- Need for state to be active partner in growth objectives
- Need to remove sunset provision in the Oregon Investment Act
- Need to support overarching strategy for investing across business life-cycle
- Need to balance drive for financial returns with creating sustainable high-wage jobs
- Need to create Oregon Growth Fund with different funding sources and disbursement obligations than Oregon Growth Account
- Need to provide the Board with allocation authority
- Importance of confirming that Board will neither invest in any specific project or company, nor compete with private capital resources
- \$35 million allocation to start the Oregon Growth Fund

EFFECT OF COMMITTEE AMENDMENT: Legislative intent and goals of the Oregon Growth Board (the Board) are expanded upon to include objectives to encourage investment and capital availability through all stages of business life cycle, particularly in the traded sector and rural Oregon. The Board duties, functions and powers are specified in greater detail regarding investment and management of the Oregon Growth Fund (the Fund) and the Oregon Growth Account (the Account). Returns earned through the Account are designated for the Education Stability Fund. Management of the Fund is specified to include competitive grants and loans for economic development.

The Board is directed to collaborate with local governments, state agencies, financial institutions and private entities and to delegate any duties or powers to those entities that they are authorized to perform. In addition, the Board is to solicit, obtain and accept local, state, federal and private resources and donations for deposit into the Account and the Fund. Requirements for Board rules are expanded to specify permissible investments and activities , create guidelines for the amount of leverage to maximize investments, provide a performance evaluation framework and methodology, and report biennially to interim committees related to business and economic development.

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This summary has not been adopted or officially endorsed by action of the committee.

The Board is to serve in an advisory capacity to the Legislature and make recommendations regarding appropriation of moneys to the Fund, tax modifications designed to promote private investment in the Fund, incentive programs for private sector investment, and Account management policy to earn returns for the Education Stability Fund. Board members are required to submit an annual Statement of Economic Interest. The Board member serving on the Oregon Innovation Council is no longer required to have experience in the field of venture capital. Board administrative costs may be covered through the Account.

BACKGROUND: The Oregon Investment Act, established with enactment of House Bill 4040, was an effort to capitalize on the opportunity to dramatically improve the state's efforts to attract and improve the availability of capital to help catalyze economic development across the state.

While Oregon can point to some notable success stories around capital deployment, many of the state's efforts have been limited and fragmented – a study shows those efforts have fallen short of helping employers across the business spectrum overcome a series of capital gaps. At the same time, the private sector alone has not been able to sufficiently address this capital need for Oregon businesses.

The Investment Act opened the door for Oregon to establish a new framework to address our shortcomings by being more strategic in deploying public resources, in concert with leveraged funding from private investors. Oregon is not unique in looking at new models that help local businesses attract private capital: at least 30 other states have varying investment models that help them assist businesses, particularly in supporting business formation and growth capital.

This new strategy requires an innovative vision regarding capital deployment that brings together the strengths of the public and private sector. It requires clear objectives and safeguards, and a clear methodology to measure results. It requires the private sector to assume a substantial amount of risk. Finally, it requires willingness by government to consolidate disparate economic development dollars, and to collaborate to advance the best opportunities for job and wage growth.

A-Engrossed
House Bill 2323

Ordered by the House April 12
Including House Amendments dated April 12

Sponsored by Representative READ (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Establishes Oregon Growth Board Task Force. Sunsets task force on June 30, 2015.]

Makes duties, functions and powers of Oregon Growth Board operative January 1, 2014. Establishes Oregon Growth Fund operative January 1, 2014.

Abolishes Oregon Growth Account Board and transfers duties, functions and powers of Oregon Growth Account Board to Oregon Growth Board operative January 1, 2014. Repeals former sunset and repeal provisions relating to Oregon Growth Board and Oregon Growth Fund that were to take effect on June 30, 2013.

Requires Oregon Growth Board to adopt rules that provide means of evaluating performance of investments. Requires board to report annually to Legislative Assembly regarding implementation and administration of board and investments made by board.

Authorizes Oregon Growth Board to use moneys in Oregon Growth Account to pay administrative costs associated with account and with administering duties, functions and powers of board.

Provides that certain amendments to statutes become operative on 91st day after adjournment sine die.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the Oregon Growth Board; creating new provisions; amending ORS 192.502, 244.050,
3 284.706, 293.731, 293.761 and 348.702 and sections 2, 5 and 26, chapter 90, Oregon Laws 2012;
4 repealing sections 27, 28, 34, 35 and 36, chapter 90, Oregon Laws 2012; and declaring an emer-
5 gency.

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

7 **SECTION 1.** Section 26, chapter 90, Oregon Laws 2012, is amended to read:

8 **Sec. 26.** Sections 5, 6, 7 and 12 to 18, **chapter 90, Oregon Laws 2012** [*of this 2012 Act*], the
9 amendments to ORS [*192.502,*] 284.701, [*284.706, 293.731,*] 293.733[, *293.761,*] **and** 293.796 [*and*
10 *348.702*] by sections **20, 23 and 25, chapter 90, Oregon Laws 2012,** [*7a and 19 to 25 of this 2012*
11 *Act*] and the repeal of ORS 348.701, 348.703, 348.704, 348.706, 348.707 and 348.710 by section 10,
12 **chapter 90, Oregon Laws 2012,** [*of this 2012 Act*] become operative on January [2] **1,** 2014.

13 **SECTION 2.** Section 2, chapter 90, Oregon Laws 2012, is amended to read:

14 **Sec. 2.** It is the intent of the Legislative Assembly, in enacting sections 1 to 7, **chapter 90,**
15 **Oregon Laws 2012** [*of this 2012 Act*], to encourage investment in and availability of capital to
16 businesses in this state, **including but not limited to traded sector businesses, businesses in**
17 **the initial and follow-up phases of development and businesses in the rural regions of this**
18 **state,** and to increase resources available to local governments and state agencies that create, fa-
19 cilitate, maintain and promote financial services and support and to other efforts that further eco-
20 nomic development in Oregon.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **SECTION 3.** Section 5, chapter 90, Oregon Laws 2012, is amended to read:

2 **Sec. 5.** The Oregon Growth Board has the following duties, functions and powers:

3 (1) To maintain, invest and reinvest moneys in the Oregon Growth Fund established under sec-
4 tion 7, **chapter 90, Oregon Laws 2012**, [of this 2012 Act] consistent with the policies and procedures
5 established by the board and the investment standard stated in ORS 293.726, including but not lim-
6 ited to the creation and maintenance of one or more investment funds within the Oregon Growth
7 Fund. In exercising its authority under this subsection, the board may include economic factors, in-
8 cluding but not limited to job retention and creation, as considerations in making investment deci-
9 sions.

10 (2) To maintain, invest and reinvest moneys in the Oregon Growth Account established under
11 ORS 348.702 consistent with the policies and procedures established by the board and the investment
12 standard stated in ORS 293.726 and for the purpose of earning returns for the Education Stability
13 Fund. Policies established by the board under this subsection shall include, but are not limited to,
14 the determination of when and how earnings are calculated and declared available from the account
15 on behalf of the Education Stability Fund.

16 (3) To make and enter into contracts, agreements or arrangements for the investment and man-
17 agement of moneys in the Oregon Growth Account and the Oregon Growth Fund as provided in
18 section 6, **chapter 90, Oregon Laws 2012**, [of this 2012 Act] and for other services the board deems
19 reasonable and necessary to fulfill the duties of the board under this section.

20 (4)(a) With respect to the Oregon Growth Account, to make, purchase, guarantee or hold loans,
21 including but not limited to participation interests in loans, made to or from the Oregon Growth
22 Account for the purpose of earning returns for the Education Stability Fund.

23 (b) With respect to the Oregon Growth Fund, to make, purchase, guarantee or hold grants and
24 loans, including but not limited to competitive grants and participation interests in loans, made to
25 or from the Oregon Growth Fund for the benefit of qualified businesses for the purpose of furthering
26 economic development.

27 (5) To qualify or certify businesses that invest in the Oregon Growth Account or the Oregon
28 Growth Fund for any investment incentive approved by the board.

29 (6) To collaborate, cooperate and enter into agreements with local governments, state agencies,
30 financial institutions and other entities as appropriate to:

31 (a) Provide financial services and support to businesses for the purpose of furthering economic
32 development;

33 (b) Coordinate actions, responsibilities and resources that further economic development; and

34 (c) Delegate between the board and a local government or state agency any duties, functions
35 or powers that the board, local government or state agency is authorized to perform if consistent
36 with and necessary to the administration of sections 1 to 7, **chapter 90, Oregon Laws 2012** [of this
37 2012 Act]. Delegation of duties, functions or powers under this paragraph must be done pursuant to
38 written agreement.

39 (7) To seek, solicit, obtain and accept local, state, federal and private resources and donations
40 for deposit into the Oregon Growth Account and the Oregon Growth Fund to aid in the adminis-
41 tration of sections 1 to 7, **chapter 90, Oregon Laws 2012** [of this 2012 Act].

42 (8) To adopt rules that [specify]:

43 (a) **Specify** the board's permissible investments[,] and **the** activities and services that the board
44 may provide or engage in;

45 (b) **Create** guidelines regarding the amount and type of leverage to maximize investments and

1 any other resources available to, and subject to the authority of, the board; *[and]*

2 **(c) Provide a means to evaluate the performance of investments, including, but not lim-**
3 **ited to, the number of businesses assisted, the types and amount of resources leveraged and**
4 **returns on investment, and to evaluate impact on jobs and wages in this state; and**

5 *[(c)]* **(d) Establish** other requirements that the board considers necessary for the exercise of the
6 board's duties, functions and powers under sections 1 to 7, **chapter 90, Oregon Laws 2012** *[of this*
7 *2012 Act]*.

8 (9) To make recommendations to the Legislative Assembly regarding:

9 (a) Appropriations of General Fund moneys to the Oregon Growth Fund;

10 (b) The terms of income and corporate excise tax subtractions or other tax expenditures, as
11 defined in ORS 291.201, that will promote and create private investment in the Oregon Growth Fund;

12 (c) Incentives for private sector investment that further investment, capital availability, job
13 creation and economic development;

14 (d) The use of moneys in the Oregon Growth Account to earn returns for the Education Stability
15 Fund; and

16 (e) Legislation needed to further economic development.

17 **(10) To report annually to standing and interim committees of the Legislative Assembly**
18 **related to business and economic development regarding implementation and administration**
19 **of the Oregon Growth Board and investments made by the board pursuant to this section.**

20 **SECTION 4. Sections 27, 28, 34, 35 and 36, chapter 90, Oregon Laws 2012, are repealed.**

21 **SECTION 5.** ORS 192.502, as amended by section 26, chapter 45, Oregon Laws 2012, and
22 sections 19 and 30, chapter 90, Oregon Laws 2012, is amended to read:

23 192.502. The following public records are exempt from disclosure under ORS 192.410 to 192.505:

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

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

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

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

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

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

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

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

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

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

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

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

19 (9)(a) Public records or information the disclosure of which is prohibited or restricted or other-
20 wise made confidential or privileged under Oregon law.

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

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

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

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

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

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

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

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

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

45 (13) Records of or submitted to the State Treasurer, the Oregon Investment Council or the

1 agents of the treasurer or the council relating to active or proposed publicly traded investments
2 under ORS chapter 293, including but not limited to records regarding the acquisition, exchange or
3 liquidation of the investments. For the purposes of this subsection:

4 (a) The exemption does not apply to:

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

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

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

11 (14)(a) Records of or submitted to the State Treasurer, the Oregon Investment Council, the
12 Oregon Growth [*Account*] Board or the agents of the treasurer, council or board relating to actual
13 or proposed investments under ORS chapter 293 or 348 in a privately placed investment fund or a
14 private asset including but not limited to records regarding the solicitation, acquisition, deployment,
15 exchange or liquidation of the investments including but not limited to:

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

18 (B) Financial statements of an investment fund, an asset ownership or their respective invest-
19 ment vehicles.

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

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

24 (E) Capital call and distribution notices of an investment fund, an asset ownership or their re-
25 spective investment vehicles.

26 (F) Investment agreements and related documents.

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

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

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

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

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

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

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

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

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

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

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

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

6 (17)(a) The following records, communications and information submitted to the Oregon Business
7 Development Commission, the Oregon Business Development Department, the State Department of
8 Agriculture, the Oregon Growth [Account] Board, the Port of Portland or other ports as defined in
9 ORS 777.005, or a county or city governing body and any board, department, commission, council
10 or agency thereof, by applicants for investment funds, grants, loans, services or economic develop-
11 ment moneys, support or assistance including, but not limited to, those described in ORS 285A.224:

12 (A) Personal financial statements.

13 (B) Financial statements of applicants.

14 (C) Customer lists.

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

20 (E) Production, sales and cost data.

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

23 (b) The following records, communications and information submitted to the State Department
24 of Energy by applicants for tax credits or for grants awarded under ORS 469B.256:

25 (A) Personal financial statements.

26 (B) Financial statements of applicants.

27 (C) Customer lists.

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

33 (E) Production, sales and cost data.

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

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

45 (a) The identity of the individual concern or enterprise that is delinquent over 60 days in the

1 payment or delivery of the taxes.

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

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

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

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

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

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

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

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

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

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

21 (23) The records of a library, including:

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

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

25 (c) The electronic mail address of a patron.

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

29 (a) Personal and corporate financial statements and information, including tax returns.

30 (b) Credit reports.

31 (c) Project appraisals.

32 (d) Market studies and analyses.

33 (e) Articles of incorporation, partnership agreements and operating agreements.

34 (f) Commitment letters.

35 (g) Project pro forma statements.

36 (h) Project cost certifications and cost data.

37 (i) Audits.

38 (j) Project tenant correspondence.

39 (k) Personal information about a tenant.

40 (L) Housing assistance payments.

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

44 (26) Sensitive business, commercial or financial information furnished to or developed by a
45 public body engaged in the business of providing electricity or electricity services, if the information

1 is directly related to a transaction described in ORS 261.348, or if the information is directly related
2 to a bid, proposal or negotiations for the sale or purchase of electricity or electricity services, and
3 disclosure of the information would cause a competitive disadvantage for the public body or its re-
4 tail electricity customers. This subsection does not apply to cost-of-service studies used in the de-
5 velopment or review of generally applicable rate schedules.

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

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

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

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

30 (31) Documents, materials or other information submitted to the Director of the Department of
31 Consumer and Business Services in confidence by a state, federal, foreign or international regulatory
32 or law enforcement agency or by the National Association of Insurance Commissioners, its affiliates
33 or subsidiaries under ORS 86A.095 to 86A.198, 697.005 to 697.095, 697.602 to 697.842, 705.137, 717.200
34 to 717.320, 717.900 or 717.905, ORS chapter 59, 723, 725 or 726, the Bank Act or the Insurance Code
35 when:

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

39 (b) The director has obligated the Department of Consumer and Business Services not to dis-
40 close the document, material or other information.

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

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

43 (a) Generation, storage or conveyance of:

44 (A) Electricity;

45 (B) Gas in liquefied or gaseous form;

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

2 (D) Petroleum products;

3 (E) Sewage; or

4 (F) Water.

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

6 (c) Data transmissions by whatever means provided.

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

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

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

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

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

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

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

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

28 (38) Records of or submitted to a domestic violence service or resource center that relate to the
29 name or personal information of an individual who visits a center for service, including the date of
30 service, the type of service received, referrals or contact information or personal information of a
31 family member of the individual. As used in this subsection, "domestic violence service or resource
32 center" means an entity, the primary purpose of which is to assist persons affected by domestic or
33 sexual violence by providing referrals, resource information or other assistance specifically of ben-
34 efit to domestic or sexual violence victims.

35 **SECTION 6.** ORS 244.050, as amended by sections 9 and 29, chapter 90, Oregon Laws 2012, is
36 amended to read:

37 244.050. (1) On or before April 15 of each year the following persons shall file with the Oregon
38 Government Ethics Commission a verified statement of economic interest as required under this
39 chapter:

40 (a) The Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the
41 Bureau of Labor and Industries, district attorneys and members of the Legislative Assembly.

42 (b) Any judicial officer, including justices of the peace and municipal judges, except any pro tem
43 judicial officer who does not otherwise serve as a judicial officer.

44 (c) Any candidate for a public office designated in paragraph (a) or (b) of this subsection.

45 (d) The Deputy Attorney General.

1 (e) The Legislative Administrator, the Legislative Counsel, the Legislative Fiscal Officer, the
2 Secretary of the Senate and the Chief Clerk of the House of Representatives.

3 (f) The Chancellor and Vice Chancellors of the Oregon University System and the president and
4 vice presidents, or their administrative equivalents, in each public university listed in ORS 352.002.

5 (g) The following state officers:

6 (A) Adjutant General.

7 (B) Director of Agriculture.

8 (C) Manager of State Accident Insurance Fund Corporation.

9 (D) Water Resources Director.

10 (E) Director of Department of Environmental Quality.

11 (F) Director of Oregon Department of Administrative Services.

12 (G) State Fish and Wildlife Director.

13 (H) State Forester.

14 (I) State Geologist.

15 (J) Director of Human Services.

16 (K) Director of the Department of Consumer and Business Services.

17 (L) Director of the Department of State Lands.

18 (M) State Librarian.

19 (N) Administrator of Oregon Liquor Control Commission.

20 (O) Superintendent of State Police.

21 (P) Director of the Public Employees Retirement System.

22 (Q) Director of Department of Revenue.

23 (R) Director of Transportation.

24 (S) Public Utility Commissioner.

25 (T) Director of Veterans' Affairs.

26 (U) Executive director of Oregon Government Ethics Commission.

27 (V) Director of the State Department of Energy.

28 (W) Director and each assistant director of the Oregon State Lottery.

29 (X) Director of the Department of Corrections.

30 (Y) Director of the Oregon Department of Aviation.

31 (Z) Executive director of the Oregon Criminal Justice Commission.

32 (AA) Director of the Oregon Business Development Department.

33 (BB) Director of the Office of Emergency Management.

34 (CC) Director of the Employment Department.

35 (DD) Chief of staff for the Governor.

36 (EE) Administrator of the Office for Oregon Health Policy and Research.

37 (FF) Director of the Housing and Community Services Department.

38 (GG) State Court Administrator.

39 (HH) Director of the Department of Land Conservation and Development.

40 (II) Board chairperson of the Land Use Board of Appeals.

41 (JJ) State Marine Director.

42 (KK) Executive director of the Oregon Racing Commission.

43 (LL) State Parks and Recreation Director.

44 (MM) Public defense services executive director.

45 (NN) Chairperson of the Public Employees' Benefit Board.

- 1 (OO) Director of the Department of Public Safety Standards and Training.
- 2 (PP) Chairperson of the Oregon Student Access Commission.
- 3 (QQ) Executive director of the Oregon Watershed Enhancement Board.
- 4 (RR) Director of the Oregon Youth Authority.
- 5 (SS) Director of the Oregon Health Authority.
- 6 (TT) Deputy Superintendent of Public Instruction.
- 7 (h) Any assistant in the Governor's office other than personal secretaries and clerical personnel.
- 8 (i) Every elected city or county official.
- 9 (j) Every member of a city or county planning, zoning or development commission.
- 10 (k) The chief executive officer of a city or county who performs the duties of manager or prin-
- 11 cipal administrator of the city or county.
- 12 (L) Members of local government boundary commissions formed under ORS 199.410 to 199.519.
- 13 (m) Every member of a governing body of a metropolitan service district and the executive of-
- 14 ficer thereof.
- 15 (n) Each member of the board of directors of the State Accident Insurance Fund Corporation.
- 16 (o) The chief administrative officer and the financial officer of each common and union high
- 17 school district, education service district and community college district.
- 18 (p) Every member of the following state boards and commissions:
- 19 (A) Board of Geologic and Mineral Industries.
- 20 (B) Oregon Business Development Commission.
- 21 (C) State Board of Education.
- 22 (D) Environmental Quality Commission.
- 23 (E) Fish and Wildlife Commission of the State of Oregon.
- 24 (F) State Board of Forestry.
- 25 (G) Oregon Government Ethics Commission.
- 26 (H) Oregon Health Policy Board.
- 27 (I) State Board of Higher Education.
- 28 (J) Oregon Investment Council.
- 29 (K) Land Conservation and Development Commission.
- 30 (L) Oregon Liquor Control Commission.
- 31 (M) Oregon Short Term Fund Board.
- 32 (N) State Marine Board.
- 33 (O) Mass transit district boards.
- 34 (P) Energy Facility Siting Council.
- 35 (Q) Board of Commissioners of the Port of Portland.
- 36 (R) Employment Relations Board.
- 37 (S) Public Employees Retirement Board.
- 38 (T) Oregon Racing Commission.
- 39 (U) Oregon Transportation Commission.
- 40 (V) Wage and Hour Commission.
- 41 (W) Water Resources Commission.
- 42 (X) Workers' Compensation Board.
- 43 (Y) Oregon Facilities Authority.
- 44 (Z) Oregon State Lottery Commission.
- 45 (AA) Pacific Northwest Electric Power and Conservation Planning Council.

1 (BB) Columbia River Gorge Commission.

2 (CC) Oregon Health and Science University Board of Directors.

3 (DD) Capitol Planning Commission.

4 (EE) Higher Education Coordinating Commission.

5 **(FF) Oregon Growth Board.**

6 (q) The following officers of the State Treasurer:

7 (A) Deputy State Treasurer.

8 (B) Chief of staff for the office of the State Treasurer.

9 (C) Director of the Investment Division.

10 (r) Every member of the board of commissioners of a port governed by ORS 777.005 to 777.725
11 or 777.915 to 777.953.

12 (s) Every member of the board of directors of an authority created under ORS 441.525 to 441.595.

13 (2) By April 15 next after the date an appointment takes effect, every appointed public official
14 on a board or commission listed in subsection (1) of this section shall file with the Oregon Govern-
15 ment Ethics Commission a statement of economic interest as required under ORS 244.060, 244.070
16 and 244.090.

17 (3) By April 15 next after the filing deadline for the primary election, each candidate described
18 in subsection (1) of this section shall file with the commission a statement of economic interest as
19 required under ORS 244.060, 244.070 and 244.090.

20 (4) Within 30 days after the filing deadline for the general election, each candidate described in
21 subsection (1) of this section who was not a candidate in the preceding primary election, or who
22 was nominated for public office described in subsection (1) of this section at the preceding primary
23 election by write-in votes, shall file with the commission a statement of economic interest as re-
24 quired under ORS 244.060, 244.070 and 244.090.

25 (5) Subsections (1) to (4) of this section apply only to persons who are incumbent, elected or
26 appointed public officials as of April 15 and to persons who are candidates on April 15. Subsections
27 (1) to (4) of this section also apply to persons who do not become candidates until 30 days after the
28 filing deadline for the statewide general election.

29 (6) If a statement required to be filed under this section has not been received by the commis-
30 sion within five days after the date the statement is due, the commission shall notify the public of-
31 ficial or candidate and give the public official or candidate not less than 15 days to comply with the
32 requirements of this section. If the public official or candidate fails to comply by the date set by the
33 commission, the commission may impose a civil penalty as provided in ORS 244.350.

34 **SECTION 7.** ORS 284.706, as amended by sections 21 and 31, chapter 90, Oregon Laws 2012, is
35 amended to read:

36 284.706. (1) There is created the Oregon Innovation Council consisting of the following voting
37 members:

38 (a) The Governor or the Governor's designated representative, who shall be chairperson of the
39 council.

40 (b) Five members appointed by the Governor who are engaged in the operations of Oregon
41 traded sector industries or Oregon growth businesses.

42 (c) One member appointed by the Governor who is a representative of an Oregon-based, gener-
43 ally accredited, not-for-profit private institution of higher education.

44 (d) A member of the Oregon Growth [Account] Board, appointed by the board[, *who has experi-*
45 *ence in the field of venture capital*].

1 (e) A member of the Engineering and Technology Industry Council, appointed by the Engineer-
2 ing and Technology Industry Council.

3 (f) The Director of the Oregon Business Development Department.

4 (g) The Chancellor of the Oregon University System.

5 (h) The Commissioner for Community College Services.

6 (i) The State Treasurer.

7 (2)(a) The Speaker of the House of Representatives shall appoint two members to the council
8 who are members of the House of Representatives.

9 (b) The President of the Senate shall appoint two members to the council who are members of
10 the Senate.

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

13 (3) The following persons, or their representatives, shall serve as ex officio, nonvoting members
14 of the council:

15 (a) The presiding officer of the Oregon Business Development Commission.

16 (b) The president of the State Board of Higher Education.

17 (c) The chairperson of the State Board of Education.

18 (d) An executive officer of an association representing Oregon-based, generally accredited, not-
19 for-profit private institutions of higher education, appointed by the Governor.

20 (4) The term of office of each appointed voting member of the council is three years, but an
21 appointed member serves at the pleasure of the appointing authority. Before the expiration of the
22 term of an appointed voting member, the appointing authority shall appoint a successor whose term
23 begins on July 1 next following. An appointed member is eligible for reappointment. If there is a
24 vacancy for any cause, the appointing authority shall make an appointment to become immediately
25 effective for the remainder of the unexpired term.

26 (5) A majority of the voting members of the council constitutes a quorum for the transaction
27 of business.

28 (6) Official action by the council requires the approval of a majority of the voting members of
29 the council.

30 (7) The council shall meet at least twice per fiscal year at a place, day and time determined by
31 the chairperson. The council may also meet at other times and places specified by a call of the
32 chairperson or by written request of a majority of the voting members of the council.

33 (8) The council may adopt rules necessary for the operation of the council.

34 (9) The council may establish committees and delegate to the committees duties as the council
35 considers desirable.

36 (10) The Oregon Business Development Department shall provide staff support to the council.

37 (11) Members of the council who are members of the Legislative Assembly are entitled to com-
38 pensation and expense reimbursement as provided in ORS 171.072.

39 (12) Members of the council who are not members of the Legislative Assembly are entitled to
40 compensation and expenses incurred by them in the performance of their official duties in the man-
41 ner and amounts provided for in ORS 292.495. Claims for compensation and expenses of members
42 of the council who are public officers shall be paid out of funds appropriated to the public agency
43 that employs the member. Claims for compensation and expenses of members of the council who are
44 not public officers shall be paid out of funds appropriated to the Oregon Business Development De-
45 partment for that purpose.

1 (13) All agencies of state government, as defined in ORS 174.111, are directed to assist the
2 council in the performance of its duties and, to the extent permitted by laws relating to
3 confidentiality, to furnish such information and advice as the members of the council consider nec-
4 essary to perform their duties.

5 **SECTION 8.** ORS 293.731, as amended by sections 22 and 32, chapter 90, Oregon Laws 2012, is
6 amended to read:

7 293.731. Subject to the objective set forth in ORS 293.721 and the standards set forth in ORS
8 293.726, the Oregon Investment Council shall formulate policies for the investment and reinvestment
9 of moneys in the investment funds and the acquisition, retention, management and disposition of
10 investments of the investment funds. The council, from time to time, shall review those policies and
11 make changes therein as it considers necessary or desirable. The council may formulate separate
12 policies for any fund included in the investment funds. This section does not apply to the Oregon
13 Growth Account, **the Oregon Growth Fund**, the Oregon Growth *[Account]* Board, the Oregon
14 Commercialized Research Fund, the Oregon Innovation Fund or the Oregon Innovation Council.

15 **SECTION 9.** ORS 293.761, as amended by sections 24 and 33, chapter 90, Oregon Laws 2012, is
16 amended to read:

17 293.761. (1) The investment officer shall follow generally accepted accounting practices and
18 provide to the officer or body having control and administration of any investment funds any infor-
19 mation necessary for financial reporting required by law.

20 (2) The investment officer shall separately identify investments held in the Oregon Growth Ac-
21 count established in ORS 348.702 *[and the Oregon Resource and Technology Development Subaccount*
22 *established in ORS 348.706]* as part of the information provided under this section on the Education
23 Stability Fund.

24 **SECTION 10.** ORS 348.702, as amended by section 2, chapter 805, Oregon Laws 2009, and
25 sections 7a and 33a, chapter 90, Oregon Laws 2012, is amended to read:

26 348.702. (1) There is created within the Education Stability Fund the Oregon Growth Account,
27 to which shall be credited, in the manner provided in subsection (2) of this section, 10 percent of the
28 funds transferred under *[section 4,]* Article XV, **section 4**, of the Oregon Constitution, from the
29 Administrative Services Economic Development Fund to the Education Stability Fund. Separate re-
30 cords shall be maintained for moneys in the Oregon Growth Account that are available for the
31 purposes specified in subsection (5) of this section. The account may be credited with unrestricted
32 appropriations, gifts, donations, grants or contract proceeds from any source, with investments or
33 funds from any source and with returns on investments made from the account.

34 (2) The Oregon Department of Administrative Services may credit to the Oregon Growth Ac-
35 count from the first funds transferred in a fiscal year to the Education Stability Fund under *[section*
36 *4,]* Article XV, **section 4**, of the Oregon Constitution, an amount up to the amount the department
37 estimates to be 10 percent of the funds required to be transferred to the Education Stability Fund
38 for that fiscal year.

39 (3) If at the end of the fiscal year the amount credited to the Oregon Growth Account under
40 subsection (2) of this section is less than or greater than 10 percent of the amount required to be
41 transferred under *[section 4,]* Article XV, **section 4**, of the Oregon Constitution, to the Education
42 Stability Fund, the amount credited to the Oregon Growth Account shall be adjusted in one of the
43 following ways:

44 (a) The amount credited to the account in the following fiscal year may be adjusted;

45 (b) Any excess may be transferred from the Oregon Growth Account to the Education Stability

1 Fund; or

2 (c) Any shortage may be transferred from the Education Stability Fund to the Oregon Growth
3 Account from funds available for that purpose.

4 (4) Adjustments required by subsection (3) of this section shall be made without consideration
5 of any interest or other earnings that have accrued during the fiscal year.

6 (5) The purpose of the Oregon Growth Account is to earn returns for the Education Stability
7 Fund [*by making investments in or by providing seed capital for emerging growth businesses*].

8 (6) The investment of funds in the Oregon Growth Account shall be governed by the Oregon
9 Growth [*Account*] Board.

10 (7) **The Oregon Growth Board may use moneys in the Oregon Growth Account to pay the**
11 **administrative costs associated with the account and with administering those portions of**
12 **sections 1 to 7, chapter 90, Oregon Laws 2012, that pertain to the account.**

13 **SECTION 11. The amendments to ORS 192.502, 284.706, 293.731, 293.761 and 348.702 by**
14 **sections 5 and 7 to 10 of this 2013 Act become operative on the 91st day after the date on**
15 **which the 2013 regular session of the Seventy-seventh Legislative Assembly adjourns sine die.**

16 **SECTION 12. This 2013 Act being necessary for the immediate preservation of the public**
17 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
18 **on its passage.**

19