

**PROPOSED AMENDMENTS TO
HOUSE BILL 2041**

1 On page 1 of the printed bill, after “ORS” delete the rest of the line and
2 insert “305.140, 305.895, 305.992 and 316.680 and sections 44 and 69, chapter
3 1, Oregon Laws 2015; repealing sections 31, 32, 33, 34, 35, 36, 37, 38, 39, 40,
4 41, 42, 43 and 71, chapter 1, Oregon Laws 2015; and prescribing an effective
5 date.”.

6 Delete lines 4 through 31 and pages 2 through 5 and insert:

7 **“SECTION 1. As used in sections 1 to 13 of this 2015 Act:**

8 **“(1) ‘Cannabinoid concentrate,’ ‘cannabinoid edible,’ ‘cannabinoid**
9 **extract,’ ‘cannabinoid product,’ ‘consumer,’ ‘immature marijuana**
10 **plant,’ ‘marijuana flowers,’ ‘marijuana items,’ ‘marijuana leaves’ and**
11 **‘marijuana retailer’ have the meanings given those terms in section**
12 **5, chapter 1, Oregon Laws 2015.**

13 **“(2) ‘Retail sale’ means any transfer, exchange, gift or barter of a**
14 **marijuana item by any person to a consumer.**

15 **“(3) ‘Retail sales price’ means the price paid for a marijuana item,**
16 **excluding tax, to a marijuana retailer by or on behalf of a consumer**
17 **of the marijuana item.**

18 **“SECTION 2. (1) A tax is hereby imposed upon the retail sale of**
19 **marijuana items in this state. The tax shall be collected at the point**
20 **of sale of a marijuana item by a marijuana retailer at the time at**
21 **which the retail sale occurs.**

22 **“(2) The tax imposed under this section shall be imposed at the rate**

1 **of:**

2 **“(a) 17 percent of the retail sales price of marijuana leaves;**

3 **“(b) 17 percent of the retail sales price of marijuana flowers;**

4 **“(c) 17 percent of the retail sales price of immature marijuana**
5 **plants;**

6 **“(d) 17 percent of the retail sales price of a cannabinoid edible;**

7 **“(e) 17 percent of the retail sales price of a cannabinoid concen-**
8 **trate;**

9 **“(f) 17 percent of the retail sales price of a cannabinoid extract;**

10 **“(g) 17 percent of the retail sales price of a cannabinoid product**
11 **that is intended to be used by applying the cannabinoid product to the**
12 **skin or hair; and**

13 **“(h) 17 percent of the retail sales price of cannabinoid products**
14 **other than those described in paragraph (g) of this subsection.**

15 **“(3) If the tax imposed under this section does not equal an amount**
16 **calculable to a whole cent, the tax shall be equal to the next higher**
17 **whole cent.**

18 **“(4) The amount of the tax shall be separately stated on an invoice,**
19 **receipt or other similar document that the marijuana retailer provides**
20 **to the consumer, or shall be otherwise disclosed to the consumer.**

21 **“(5) A person may not knowingly sell, purchase, install, transfer**
22 **or possess software programs or other electronic devices intended to**
23 **hide or to remove records of retail sales of marijuana items or to fal-**
24 **sify records of retail sales of marijuana items.**

25 **“SECTION 3. (1) Except as otherwise provided in sections 1 to 13**
26 **of this 2015 Act, the tax imposed under section 2 of this 2015 Act shall**
27 **be collected and remitted by each marijuana retailer that engages in**
28 **the retail sale of marijuana items. The tax is considered a tax upon**
29 **the marijuana retailer that is required to collect the tax, and the**
30 **marijuana retailer is considered a taxpayer.**

1 “(2) The marijuana retailer shall submit a return to the Department
2 of Revenue on or before the last day of January, April, July and Oc-
3 tober of each year for the previous calendar quarter.

4 “(3) The marijuana retailer shall pay the tax to the department in
5 the form and manner prescribed by the department, but not later than
6 with each quarterly return.

7 “(4) Marijuana retailers shall file the returns required under this
8 section regardless of whether any tax is owed.

9 “(5) The department for good cause may extend the time for making
10 any return under this section. The extension may be granted at any
11 time if a written request is filed with the department during or prior
12 to the period for which the extension may be granted. The department
13 may not grant an extension of more than 30 days.

14 “(6) Interest shall be added at the rate established under ORS
15 305.220 for each month, or fraction of a month, from the time the re-
16 turn was originally required to be filed to the time of payment.

17 “(7) Except as provided in subsections (8) and (9) of this section, the
18 period prescribed for the department to allow or make a refund of any
19 tax, or portion of tax, paid under sections 1 to 13 of this 2015 Act shall
20 be as provided in ORS 314.415.

21 “(8)(a) The department shall first apply any excess to any tax that
22 is then owed.

23 “(b) If after any offset against any delinquent amount, the excess
24 remains greater than \$1,000, it shall be applied against future liabil-
25 ities.

26 “(9) The department may not make a refund of any amount of ex-
27 cess that remains unused more than three years following receipt.

28 “SECTION 4. (1) Every person who collects any amount under sec-
29 tion 3 of this 2015 Act shall hold the same in trust for the State of
30 Oregon and for the payment thereof to the Department of Revenue in

1 the manner and at the time provided in section 3 of this 2015 Act.

2 “(2) At any time a marijuana retailer fails to remit any amount
3 collected, the department may enforce collection by the issuance of a
4 distraint warrant for the collection of the delinquent amount and all
5 penalties, interest and collection charges accrued thereon. The war-
6 rant shall be issued, recorded and proceeded upon in the same manner
7 and shall have the same force and effect as is prescribed with respect
8 to warrants for the collection of delinquent income taxes.

9 “(3)(a) In the case of a marijuana retailer that is assessed pursuant
10 to the provisions of ORS 305.265 (12) and 314.407 (1), the department
11 may issue a notice of liability to any officer, employee or member of
12 the marijuana retailer within three years from the time of assessment.
13 Within 30 days from the date the notice of liability is mailed to the
14 officer, employee or member, the officer, employee or member shall
15 pay the assessment, plus penalties and interest, or advise the depart-
16 ment in writing of objections to the liability and, if desired, request a
17 conference. A conference shall be governed by the provisions of ORS
18 305.265 pertaining to a conference requested from a notice of defi-
19 ciency.

20 “(b) After a conference or, if no conference is requested, a deter-
21 mination of the issues considering the written objections, the depart-
22 ment shall mail the officer, employee or member a conference letter
23 affirming, canceling or adjusting the notice of liability. Within 90 days
24 from the date the conference letter is mailed to the officer, employee
25 or member, the officer, employee or member shall pay the assessment,
26 plus penalties and interest, or appeal to the tax court in the manner
27 provided for an appeal from a notice of assessment.

28 “(c) If the department does not receive payment or written ob-
29 jection to the notice of liability within 30 days after the notice of li-
30 ability was mailed, the notice of liability becomes final. In that event,

1 the officer, employee or member may appeal the notice of liability to
2 the tax court within 90 days after it became final in the manner pro-
3 vided for an appeal from a notice of assessment.

4 “(4)(a) In the case of a failure to file a return on the due date,
5 governed by the provisions of ORS 305.265 (10) and 314.400, the depart-
6 ment, in addition to any action described in the provisions of ORS
7 305.265 (10) and 314.400, may send notices of determination and assess-
8 ment to any officer, employee or member any time within three years
9 after the assessment. The time of assessment against the officer, em-
10 ployee or member is 30 days after the date the notice of determination
11 and assessment is mailed. Within 30 days from the date the notice of
12 determination and assessment is mailed to the officer, employee or
13 member, the officer, employee or member shall pay the assessment,
14 plus penalties and interest, or advise the department in writing of ob-
15 jections to the assessment and, if desired, request a conference. A
16 conference shall be governed by the provisions of ORS 305.265 per-
17 taining to a conference requested from a notice of deficiency.

18 “(b) After a conference or, if no conference is requested, a deter-
19 mination of the issues considering the written objections, the depart-
20 ment shall mail the officer, employee or member a conference letter
21 affirming, canceling or adjusting the notice of determination and as-
22 sessment. Within 90 days from the date the conference letter is mailed
23 to the officer, employee or member, the officer, employee or member
24 shall pay the assessment, plus penalties and interest, or appeal in the
25 manner provided for an appeal from a notice of assessment.

26 “(c) If the department does not receive payment or written ob-
27 jection to the notice of determination and assessment within 30 days
28 after the notice of determination and assessment was mailed, the no-
29 tice of determination and assessment becomes final. In that event, the
30 officer, employee or member may appeal the notice of determination

1 and assessment to the tax court within 90 days after it became final
2 in the manner provided for an appeal from a notice of assessment.

3 “(5)(a) More than one officer or employee of a corporation may be
4 held jointly and severally liable for payment of taxes.

5 “(b) Notwithstanding the provisions of ORS 314.835, 314.840 or
6 314.991, if more than one officer or employee of a corporation may be
7 held jointly and severally liable for payment of taxes, the department
8 may require any or all of the officers, members or employees who may
9 be held liable to appear before the department for a joint determi-
10 nation of liability. The department shall notify each officer, member
11 or employee of the time and place set for the determination of liabil-
12 ity.

13 “(c) Each person notified of a joint determination under this sub-
14 section shall appear and present such information as is necessary to
15 establish that person’s liability or nonliability for payment of taxes to
16 the department. If a person who was notified fails to appear, the de-
17 partment shall make its determination on the basis of all the infor-
18 mation and evidence presented. The department’s determination is
19 binding on all persons notified and required to appear under this sub-
20 section.

21 “(d)(A) If an appeal is taken to the Oregon Tax Court pursuant to
22 ORS 305.404 to 305.560 by any person determined to be liable for unpaid
23 taxes under this subsection, each person required to appear before the
24 department under this subsection shall be impleaded by the plaintiff.
25 The department may implead any officer, employee or member who
26 may be held jointly and severally liable for the payment of taxes. Each
27 person impleaded under this paragraph shall be made a party to the
28 action before the tax court and shall make available to the tax court
29 the information that was presented before the department, as well as
30 other information that may be presented to the court.

1 **“(B) The court may determine that one or more persons impleaded**
2 **under this paragraph are liable for unpaid taxes without regard to any**
3 **earlier determination by the department that an impleaded person was**
4 **not liable for unpaid taxes.**

5 **“(C) If a person required to appear before the court under this**
6 **subsection fails or refuses to appear or bring such information in part**
7 **or in whole, or is outside the jurisdiction of the tax court, the court**
8 **shall make its determination on the basis of all the evidence intro-**
9 **duced. The evidence constitutes a public record and shall be available**
10 **to the parties and the court notwithstanding ORS 314.835, 314.840 or**
11 **314.991. The determination of the tax court is binding on all persons**
12 **made parties to the action under this subsection.**

13 **“(e) This section may not be construed to preclude a determination**
14 **by the department or the Oregon Tax Court that more than one offi-**
15 **cer, employee or member are jointly and severally liable for unpaid**
16 **taxes.**

17 **“SECTION 5. (1) A marijuana retailer shall keep receipts, invoices**
18 **and other pertinent records related to retail sales of marijuana items**
19 **in the form required by the Department of Revenue. Each record shall**
20 **be preserved for five years from the time to which the record relates,**
21 **or for as long as the marijuana retailer retains the marijuana items**
22 **to which the record relates, whichever is later. During the retention**
23 **period and at any time prior to the destruction of records, the de-**
24 **partment may give written notice to the marijuana retailer not to**
25 **destroy records described in the notice without written permission of**
26 **the department. Notwithstanding any other provision of law, the de-**
27 **partment shall preserve reports and returns filed with the department**
28 **for at least five years.**

29 **“(2) The department or its authorized representative, upon oral or**
30 **written demand, may make examinations of the books, papers, records**

1 and equipment of persons making retail sales of marijuana items and
2 any other investigations as the department deems necessary to carry
3 out the provisions of sections 1 to 13 of this 2015 Act.

4 **“SECTION 6. (1) The Department of Revenue has authority, by or-**
5 **der or subpoena to be served with the same force and effect and in the**
6 **same manner as a subpoena is served in a civil action in the circuit**
7 **court, or the Oregon Tax Court, to require the production at any time**
8 **and place the department designates of any books, papers, accounts**
9 **or other information necessary to carry out sections 1 to 13 of this 2015**
10 **Act. The department may require the attendance of any person having**
11 **knowledge in the premises, and may take testimony and require proof**
12 **material for the information, with power to administer oaths to the**
13 **person.**

14 **“(2) If a person fails to comply with a subpoena or order of the de-**
15 **partment or to produce or permit the examination or inspection of any**
16 **books, papers, records and equipment pertinent to an investigation or**
17 **inquiry under sections 1 to 13 of this 2015 Act, or to testify to any**
18 **matter regarding which the person is lawfully interrogated, the de-**
19 **partment may apply to the Oregon Tax Court or to the circuit court**
20 **of the county in which the person resides or where the person is for**
21 **an order to the person to attend and testify, or otherwise to comply**
22 **with the demand or request of the department. The department shall**
23 **apply to the court by ex parte motion, upon which the court shall**
24 **make an order requiring the person against whom the motion is di-**
25 **rected to comply with the request or demand of the department within**
26 **10 days after the service of the order, or within the additional time**
27 **granted by the court, or to justify the failure within that time. The**
28 **order shall be served upon the person to whom it is directed in the**
29 **manner required by this state for service of process, which service is**
30 **required to confer jurisdiction upon the court. Failure to obey any**

1 order issued by the court under this section is contempt of court. The
2 remedy provided by this section is in addition to other remedies, civil
3 or criminal, existing under the tax laws or other laws of this state.

4 **“SECTION 7. (1) Notwithstanding ORS 314.835 and 314.840, the De-**
5 **partment of Revenue may disclose information received under sections**
6 **1 to 13 and 19 of this 2015 Act and ORS 305.140, 305.895, 305.992 and**
7 **316.680 to the Oregon Liquor Control Commission to carry out the**
8 **provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, and**
9 **sections 1 to 13 of this 2015 Act.**

10 **“(2) The commission may disclose information obtained pursuant**
11 **to sections 3 to 70, chapter 1, Oregon Laws 2015, and sections 1 to 13**
12 **of this 2015 Act to the department for the purpose of carrying out the**
13 **provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, and**
14 **sections 1 to 13 of this 2015 Act.**

15 **“(3) Except as otherwise provided in sections 3 to 70, chapter 1,**
16 **Oregon Laws 2015, and sections 1 to 13 of this 2015 Act, a person**
17 **aggrieved by an act or determination of the department or its au-**
18 **thorized agent under sections 1 to 13 and 19 of this 2015 Act and ORS**
19 **305.140, 305.895, 305.992 and 316.680 may appeal to the Oregon Tax Court**
20 **in the time and manner provided in ORS 305.404 to 305.560. These ap-**
21 **peal rights are the exclusive remedy available to determine the**
22 **person’s liability for the tax imposed under sections 1 to 13 of this 2015**
23 **Act.**

24 **“SECTION 8. (1) The Department of Revenue shall administer and**
25 **enforce sections 1 to 13 of this 2015 Act. The department is authorized**
26 **to establish rules and procedures for the implementation and enforce-**
27 **ment of sections 1 to 13 of this 2015 Act that are consistent with**
28 **sections 1 to 13 of this 2015 Act and that the department considers**
29 **necessary and appropriate to administer and enforce sections 1 to 13**
30 **of this 2015 Act.**

1 “(2) The Oregon Liquor Control Commission shall enter into an
2 agreement with the department for the purpose of administering and
3 enforcing those provisions of sections 1 to 13 of this 2015 Act, and rules
4 or procedures established for the purpose of implementing and en-
5 forcing sections 1 to 13 of this 2015 Act, that the commission and the
6 department determine are necessary for the effective and efficient
7 administration, implementation and enforcement of sections 1 to 13
8 of this 2015 Act.

9 “SECTION 9. (1)(a) When an amount represented by a marijuana
10 retailer at retail to a consumer as constituting the tax imposed under
11 sections 1 to 13 of this 2015 Act is computed upon an amount that is
12 not taxable or is in excess of the taxable amount and is actually paid
13 by the consumer to the marijuana retailer, the excess tax paid shall
14 be returned by the marijuana retailer to the consumer upon written
15 notification by the Department of Revenue or the consumer.

16 “(b) The written notification must contain information necessary
17 to determine the validity of the consumer’s claim.

18 “(2) If the marijuana retailer does not return the excess tax within
19 60 days after mailing of the written notification required under sub-
20 section (1) of this section, the consumer may appeal to the Oregon Tax
21 Court under ORS 305.275 for the amount of the excess tax.

22 “(3)(a) The marijuana retailer shall remit to the department
23 amounts validly claimed by a consumer under this section but not
24 returned to the consumer by the marijuana retailer.

25 “(b) Amounts remitted to the department under this subsection
26 shall be credited by the department against any amounts of sales tax
27 or use tax, as applicable, due and payable on the same transaction
28 from the marijuana retailer that remitted the amount, and the bal-
29 ance, if any, shall constitute an obligation due from the seller to this
30 state.

1 **“SECTION 10. Except as otherwise provided in sections 1 to 13 of**
2 **this 2015 Act or where the context requires otherwise, the provisions**
3 **of ORS chapters 305 and 314 as to the audit and examination of re-**
4 **turns, periods of limitation, determination of and notices of deficien-**
5 **cies, assessments, collections, liens, delinquencies, claims for refund**
6 **and refunds, conferences, appeals to the Oregon Tax Court, stays of**
7 **collection pending appeal, confidentiality of returns and the penalties**
8 **relative thereto, and the procedures relating thereto, apply to the de-**
9 **terminations of taxes, penalties and interest under sections 1 to 13 of**
10 **this 2015 Act.**

11 **“SECTION 11. (1) All moneys received by the Department of Reve-**
12 **nue under sections 1 to 13 of this 2015 Act shall be deposited in the**
13 **State Treasury and credited to a suspense account established under**
14 **ORS 293.445. The department may pay expenses for the administration**
15 **and enforcement of sections 1 to 13 of this 2015 Act out of moneys re-**
16 **ceived from the tax imposed under section 2 of this 2015 Act. Amounts**
17 **necessary to pay administrative and enforcement expenses are con-**
18 **tinuously appropriated to the department from the suspense account.**

19 **“(2) Upon request, the department shall transfer available moneys**
20 **from the suspense account to the Oregon Liquor Control Commission**
21 **for deposit in an account of the commission for purposes related to**
22 **administering and enforcing sections 3 to 70, chapter 1, Oregon Laws**
23 **2015.**

24 **“(3) After the payment of administrative and enforcement expenses**
25 **and refunds or credits arising from erroneous overpayments, and after**
26 **transferring available moneys pursuant to subsection (2) of this sec-**
27 **tion, the department shall credit the balance of the moneys received**
28 **by the department under this section to the Oregon Marijuana Ac-**
29 **count established under section 44, chapter 1, Oregon Laws 2015.**

30 **“NOTE:** Section 12 was deleted by amendment. Subsequent sections were

1 not renumbered.

2 **“SECTION 13. For the purpose of compensating marijuana retailers**
3 **for expenses incurred in collecting the tax imposed under section 2 of**
4 **this 2015 Act, each marijuana retailer is permitted to deduct and retain**
5 **two percent of the amount of taxes that are collected by the marijuana**
6 **retailer from all retail sales of marijuana items conducted by the**
7 **marijuana retailer.**

8 **“SECTION 14.** Section 44, chapter 1, Oregon Laws 2015, is amended to
9 read:

10 **“Sec. 44.** (1) There is established the Oregon Marijuana Account, sepa-
11 rate and distinct from the General Fund.

12 **“(2) The account shall consist of moneys transferred to the account**
13 **under section 11 of this 2015 Act.**

14 **“[(2)] (3) [At the end of each month,]** The Oregon Liquor Control Com-
15 mission shall certify the amount of moneys available for distribution in the
16 Oregon Marijuana Account and[, *after withholding such moneys as it may*
17 *deem necessary to carry out its obligations under sections 3 to 70 of this Act,*
18 *shall within 35 days of the month for which a distribution is made]* distribute
19 the moneys as follows:

20 **“(a) Forty percent [shall] must** be transferred to the Common School
21 Fund;

22 **“(b) Twenty percent [shall] must** be transferred to the Mental Health
23 Alcoholism and Drug Services Account established under ORS 430.380;

24 **“(c) Fifteen percent [shall] must** be transferred to the State Police Ac-
25 count established under ORS 181.175;

26 **“(d) To assist local law enforcement in performing its duties under [this**
27 **Act, ten percent shall] sections 3 to 70, chapter 1, Oregon Laws 2015, 10**
28 **percent must** be transferred to the cities of [*the*] **this** state in the following
29 shares:

30 **“(A) For all distributions made from the Oregon Marijuana Account be-**

1 fore July 1, 2017, in such shares as the population of each city bears to the
2 population of the cities of *[the]* **this** state, as determined by *[the State Board*
3 *of Higher Education]* **Portland State University** last preceding such appor-
4 tionment, under ORS 190.510 to 190.610; and

5 “(B) For all distributions made from the Oregon Marijuana Account on
6 or after July 1, 2017:

7 “(i) Fifty percent of *[such ten]* **the 10** percent *[shall]* **must** be transferred
8 in such shares as the number of licenses issued by the commission under
9 sections 19 to 21, **chapter 1, Oregon Laws 2015**, *[of this Act]* during the
10 calendar year preceding the date of the distribution for premises located in
11 each city bears to the number of such licenses issued by the commission
12 during such calendar year for all premises in *[the]* **this** state; and

13 “(ii) Fifty percent of *[such ten]* **the 10** percent *[shall]* **must** be transferred
14 in such shares as the number of licenses issued by the commission under
15 section 22, **chapter 1, Oregon Laws 2015**, *[of this Act]* during the calendar
16 year preceding the date of the distribution for premises located in each city
17 bears to the number of such licenses issued by the commission during such
18 calendar year for all premises in *[the]* **this** state;

19 “(e) To assist local law enforcement in performing its duties under *[this*
20 *Act, ten percent shall]* **sections 3 to 70, chapter 1, Oregon Laws 2015, 10**
21 **percent must** be transferred to counties in the following shares:

22 “(A) For all distributions made from the Oregon Marijuana Account be-
23 fore July 1, 2017, in such shares as their respective populations bear to the
24 total population of *[the]* **this** state, as estimated from time to time by *[the*
25 *State Board of Higher Education]* **Portland State University**; and

26 “(B) For all distributions made from the Oregon Marijuana Account on
27 or after July 1, 2017:

28 “(i) Fifty percent of *[such ten]* **the 10** percent *[shall]* **must** be transferred
29 in such shares as the number of licenses issued by the commission under
30 sections 19 to 21, **chapter 1, Oregon Laws 2015**, *[of this Act]* during the

1 calendar year preceding the date of the distribution for premises located in
2 each county bears to the number of such licenses issued by the commission
3 during such calendar year for all premises in *[the]* **this** state; and

4 “(ii) Fifty percent of *[such ten]* **the 10** percent *[shall]* **must** be transferred
5 in such shares as the number of licenses issued by the commission under
6 section 22, **chapter 1, Oregon Laws 2015**, *[of this Act]* during the calendar
7 year preceding the date of the distribution for premises located in each
8 county bears to the number of such licenses issued by the commission during
9 such calendar year for all premises in *[the]* **this** state; and

10 “(f) Five percent *[shall]* **must** be transferred to the Oregon Health Au-
11 thority to be used for the establishment, operation[,] and maintenance of al-
12 cohol and drug abuse prevention, early intervention and treatment services.

13 “[~~(3)~~] **(4)** It is the intent of *[this section]* **the Legislative Assembly** that
14 the moneys distributed from the Oregon Marijuana Account to the
15 *[distributees]* **persons listed** in subsection [~~(2)~~] **(3)** of this section are in ad-
16 dition to, **and not in lieu of**, any other *[available]* moneys **available** to such
17 *[distributees and do not supplant moneys available from any other source]*
18 **persons.**

19 “**SECTION 15.** ORS 305.140 is amended to read:

20 “305.140. (1) Any person having an interest in or lien upon any real
21 property may request the Department of Revenue in writing to release such
22 real property from a cloud on the title of or lien on such property existing,
23 created or continued under any one or more of the following:

24 “(a) A warrant provided for in ORS 314.430, 321.570 or 323.610 **or section**
25 **4 of this 2015 Act**; or

26 “(b) The provisions of ORS 311.673, 311.679, 311.689, 311.711 or 311.771.

27 “(2) If, upon a request under subsection (1) of this section, the department
28 finds that a sale of such real property would not result in satisfaction in
29 whole or in part of the taxes due, it shall execute a release of such cloud
30 or lien upon such property, and such release shall be conclusive evidence of

1 the removal and extinguishment of such cloud or lien in respect of such real
2 property.

3 “(3) In addition to the release of cloud or lien provided for in subsection
4 (1) of this section, the department may execute releases on part or all of any
5 real property in the following cases, which releases shall be conclusive evi-
6 dence of the removal and extinguishment of such cloud or lien:

7 “(a) If the department finds that liability for the amount assessed, to-
8 gether with all interest thereon and penalties and costs in respect thereof,
9 has been satisfied;

10 “(b) If the department finds that the fair market value of that part of the
11 property remaining subject to the cloud or lien is at least double the amount
12 of the liability remaining unsatisfied in respect of such tax and the amount
13 of all prior liens upon the property;

14 “(c) If there is supplied to the department either an irrevocable letter of
15 credit issued by an insured institution as defined in ORS 706.008 or a bond,
16 in such form and with such surety as the department considers sufficient,
17 conditioned upon the payment of the amount of the warrant, together with
18 all interest in respect thereof, within 60 days after the issuance of the re-
19 lease; or

20 “(d) If there is paid to the department in partial satisfaction of the
21 amount of the warrant provided for in ORS 314.430, 321.570 or 323.610 **or**
22 **section 4 of this 2015 Act** or the amount of any lien under ORS 311.673,
23 311.679, 311.689, 311.711 or 311.771, an amount not less than the value, as
24 determined by the department, of the lien of the State of Oregon upon the
25 part of the property so to be released. In determining such value the de-
26 partment shall give consideration to the fair market value of the part of the
27 property so to be released and to such liens thereon as have priority to the
28 lien of the State of Oregon.

29 **“SECTION 16.** ORS 305.895 is amended to read:

30 “305.895. (1) Except as provided in ORS 314.440 or other jeopardy assess-

1 ment procedure, the Department of Revenue shall take no action against a
2 taxpayer's or transferee's real or personal property before issuing a warrant
3 for the collection of tax or an amount payable by a transferee under ORS
4 311.695 as provided in ORS 314.430, 320.080, 321.570, 323.390, 323.610 and
5 324.190 **and section 4 of this 2015 Act.**

6 “(2) At least 30 days before issuing a warrant for collection of any tax
7 collected by the department or any amount payable under ORS 311.695, the
8 department shall send the taxpayer or transferee a written notice and de-
9 mand for payment. The notice shall:

10 “(a) Be sent by mail, addressed to the taxpayer or transferee at the
11 taxpayer's or transferee's last-known address.

12 “(b) Inform the taxpayer or transferee that, even if the taxpayer or
13 transferee is compliant with an installment agreement between the taxpayer
14 or transferee and the department and is in communication with the depart-
15 ment, if the tax or any portion of the tax or the amount payable under ORS
16 311.695 is not paid within 30 days after the date of the notice and demand
17 for payment, a warrant may be issued and recorded as provided in ORS
18 314.430, 320.080, 321.570, 323.390, 323.610 and 324.190 **and section 4 of this**
19 **2015 Act.**

20 “(c) Describe in clear nontechnical terms the legal authority for the
21 warrant.

22 “(d) Contain the name, office mailing address and office telephone number
23 of the person issuing the warrant and advise the taxpayer or transferee that
24 questions or complaints concerning the warrant, other than liability for the
25 underlying tax or amount payable under ORS 311.695, may be directed to that
26 person.

27 “(e) Include alternatives available to the taxpayer or transferee that
28 would prevent issuance of the warrant.

29 “(f) Inform the taxpayer or transferee of possible consequences to the
30 taxpayer or transferee of noncompliance, and of issuance of a warrant, in-

1 cluding garnishment of wages or bank accounts and seizure and sale of real
2 or personal property.

3 **“SECTION 17.** ORS 305.992 is amended to read:

4 “305.992. (1) If any returns required to be filed under ORS chapter 118,
5 314, 316, 317, 318, 321 or 323 **or sections 1 to 13 of this 2015 Act** or under
6 a local tax administered by the Department of Revenue under ORS 305.620
7 are not filed for three consecutive years by the due date (including exten-
8 sions) of the return required for the third consecutive year, there shall be a
9 penalty for each year of 100 percent of the tax liability determined after
10 credits and prepayments for each such year.

11 “(2) The penalty imposed under this section is in addition to any other
12 penalty imposed by law. However, the total amount of penalties imposed for
13 any taxable year under this section, ORS 305.265 (13), 314.400, 323.403 or
14 323.585 *[shall]* **or section 10 of this 2015 Act** may not exceed 100 percent
15 of the tax liability.

16 **“SECTION 18.** Section 19 of this 2015 Act is added to and made a
17 **part of ORS chapter 317.**

18 **“SECTION 19.** Section 280E of the Internal Revenue Code applies to
19 **all trafficking in controlled substances in Schedule I or Schedule II**
20 **that is prohibited by federal law or the laws of this state, other than**
21 **conduct authorized under sections 3 to 70, chapter 1, Oregon Laws**
22 **2015.**

23 **“SECTION 20.** ORS 316.680 is amended to read:

24 “316.680. (1) There shall be subtracted from federal taxable income:

25 “(a) The interest or dividends on obligations of the United States and its
26 territories and possessions or of any authority, commission or
27 instrumentality of the United States to the extent includable in gross income
28 for federal income tax purposes but exempt from state income taxes under
29 the laws of the United States. However, the amount subtracted under this
30 paragraph shall be reduced by any interest on indebtedness incurred to carry

1 the obligations or securities described in this paragraph, and by any expenses
2 incurred in the production of interest or dividend income described in this
3 paragraph to the extent that such expenses, including amortizable bond pre-
4 miums, are deductible in determining federal taxable income.

5 “(b) The amount of any federal income taxes accrued by the taxpayer
6 during the taxable year as described in ORS 316.685, less the amount of any
7 refunds of federal taxes previously accrued for which a tax benefit was re-
8 ceived.

9 “(c) Amounts allowable under sections 2621(a)(2) and 2622(b) of the
10 Internal Revenue Code to the extent that the taxpayer does not elect under
11 section 642(g) of the Internal Revenue Code to reduce federal taxable income
12 by those amounts.

13 “(d) Any supplemental payments made to JOBS Plus Program participants
14 under ORS 411.892.

15 “(e)(A) Federal pension income that is attributable to federal employment
16 occurring before October 1, 1991. Federal pension income that is attributable
17 to federal employment occurring before October 1, 1991, shall be determined
18 by multiplying the total amount of federal pension income for the tax year
19 by the ratio of the number of months of federal creditable service occurring
20 before October 1, 1991, over the total number of months of federal creditable
21 service.

22 “(B) The subtraction allowed under this paragraph applies only to federal
23 pension income received at a time when:

24 “(i) Benefit increases provided under chapter 569, Oregon Laws 1995, are
25 in effect; or

26 “(ii) Public Employees Retirement System benefits received for service
27 prior to October 1, 1991, are exempt from state income tax.

28 “(C) As used in this paragraph:

29 “(i) ‘Federal creditable service’ means those periods of time for which a
30 federal employee earned a federal pension.

1 “(ii) ‘Federal pension’ means any form of retirement allowance provided
2 by the federal government, its agencies or its instrumentalities to retirees
3 of the federal government or their beneficiaries.

4 “(f) Any amount included in federal taxable income for the tax year that
5 is attributable to the conversion of a regular individual retirement account
6 into a Roth individual retirement account described in section 408A of the
7 Internal Revenue Code, to the extent that:

8 “(A) The amount was subject to the income tax of another state or the
9 District of Columbia in a prior tax year; and

10 “(B) The taxpayer was a resident of the other state or the District of
11 Columbia for that prior tax year.

12 “(g) Any amounts awarded to the taxpayer by the Public Safety Memorial
13 Fund Board under ORS 243.954 to 243.974 to the extent that the taxpayer has
14 not taken the amount as a deduction in determining the taxpayer’s federal
15 taxable income for the tax year.

16 “(h) If included in taxable income for federal tax purposes, the amount
17 withdrawn during the tax year in qualified withdrawals from a college
18 savings network account established under ORS 348.841 to 348.873.

19 “(i) **Any federal deduction that the taxpayer would have been al-**
20 **lowed for the production, processing or sale of marijuana items au-**
21 **thorized under sections 3 to 70, chapter 1, Oregon Laws 2015, but for**
22 **section 280E of the Internal Revenue Code.**

23 “(2) There shall be added to federal taxable income:

24 “(a) Interest or dividends, exempt from federal income tax, on obligations
25 or securities of any foreign state or of a political subdivision or authority
26 of any foreign state. However, the amount added under this paragraph shall
27 be reduced by any interest on indebtedness incurred to carry the obligations
28 or securities described in this paragraph and by any expenses incurred in the
29 production of interest or dividend income described in this paragraph.

30 “(b) Interest or dividends on obligations of any authority, commission,

1 instrumentality and territorial possession of the United States that by the
2 laws of the United States are exempt from federal income tax but not from
3 state income taxes. However, the amount added under this paragraph shall
4 be reduced by any interest on indebtedness incurred to carry the obligations
5 or securities described in this paragraph and by any expenses incurred in the
6 production of interest or dividend income described in this paragraph.

7 “(c) The amount of any federal estate taxes allocable to income in respect
8 of a decedent not taxable by Oregon.

9 “(d) The amount of any allowance for depletion in excess of the taxpayer’s
10 adjusted basis in the property depleted, deducted on the taxpayer’s federal
11 income tax return for the taxable year, pursuant to sections 613, 613A, 614,
12 616 and 617 of the Internal Revenue Code.

13 “(e) For taxable years beginning on or after January 1, 1985, the dollar
14 amount deducted under section 151 of the Internal Revenue Code for personal
15 exemptions for the taxable year.

16 “(f) The amount taken as a deduction on the taxpayer’s federal return for
17 unused qualified business credits under section 196 of the Internal Revenue
18 Code.

19 “(g) The amount of any increased benefits paid to a taxpayer under
20 chapter 569, Oregon Laws 1995, under the provisions of chapter 796, Oregon
21 Laws 1991, and under section 26, chapter 815, Oregon Laws 1991, that is not
22 includable in the taxpayer’s federal taxable income under the Internal Rev-
23 enue Code.

24 “(h) The amount of any long term care insurance premiums paid or in-
25 curred by the taxpayer during the tax year if:

26 “(A) The amount is taken into account as a deduction on the taxpayer’s
27 federal return for the tax year; and

28 “(B) The taxpayer claims the credit allowed under ORS 315.610 for the tax
29 year.

30 “(i) Any amount taken as a deduction under section 1341 of the Internal

1 Revenue Code in computing federal taxable income for the tax year, if the
2 taxpayer has claimed a credit for claim of right income repayment adjust-
3 ment under ORS 315.068.

4 “(j) If the taxpayer makes a nonqualified withdrawal, as defined in ORS
5 348.841, from a college savings network account established under ORS
6 348.841 to 348.873, the amount of the withdrawal that is attributable to con-
7 tributions that were subtracted from federal taxable income under ORS
8 316.699.

9 “(3) Discount and gain or loss on retirement or disposition of obligations
10 described under subsection (2)(a) of this section issued on or after January
11 1, 1985, shall be treated for purposes of this chapter in the same manner as
12 under sections 1271 to 1283 and other pertinent sections of the Internal
13 Revenue Code as if the obligations, although issued by a foreign state or a
14 political subdivision of a foreign state, were not tax exempt under the
15 Internal Revenue Code.

16 **“SECTION 21.** ORS 316.680, as amended by section 74, chapter 1, Oregon
17 Laws 2015, is amended to read:

18 “316.680. (1) There shall be subtracted from federal taxable income:

19 “(a) The interest or dividends on obligations of the United States and its
20 territories and possessions or of any authority, commission or
21 instrumentality of the United States to the extent includable in gross income
22 for federal income tax purposes but exempt from state income taxes under
23 the laws of the United States. However, the amount subtracted under this
24 paragraph shall be reduced by any interest on indebtedness incurred to carry
25 the obligations or securities described in this paragraph, and by any expenses
26 incurred in the production of interest or dividend income described in this
27 paragraph to the extent that such expenses, including amortizable bond pre-
28 miums, are deductible in determining federal taxable income.

29 “(b) The amount of any federal income taxes accrued by the taxpayer
30 during the taxable year as described in ORS 316.685, less the amount of any

1 refunds of federal taxes previously accrued for which a tax benefit was re-
2 ceived.

3 “(c) Amounts allowable under sections 2621(a)(2) and 2622(b) of the
4 Internal Revenue Code to the extent that the taxpayer does not elect under
5 section 642(g) of the Internal Revenue Code to reduce federal taxable income
6 by those amounts.

7 “(d) Any supplemental payments made to JOBS Plus Program participants
8 under ORS 411.892.

9 “(e)(A) Federal pension income that is attributable to federal employment
10 occurring before October 1, 1991. Federal pension income that is attributable
11 to federal employment occurring before October 1, 1991, shall be determined
12 by multiplying the total amount of federal pension income for the tax year
13 by the ratio of the number of months of federal creditable service occurring
14 before October 1, 1991, over the total number of months of federal creditable
15 service.

16 “(B) The subtraction allowed under this paragraph applies only to federal
17 pension income received at a time when:

18 “(i) Benefit increases provided under chapter 569, Oregon Laws 1995, are
19 in effect; or

20 “(ii) Public Employees Retirement System benefits received for service
21 prior to October 1, 1991, are exempt from state income tax.

22 “(C) As used in this paragraph:

23 “(i) ‘Federal creditable service’ means those periods of time for which a
24 federal employee earned a federal pension.

25 “(ii) ‘Federal pension’ means any form of retirement allowance provided
26 by the federal government, its agencies or its instrumentalities to retirees
27 of the federal government or their beneficiaries.

28 “(f) Any amount included in federal taxable income for the tax year that
29 is attributable to the conversion of a regular individual retirement account
30 into a Roth individual retirement account described in section 408A of the

1 Internal Revenue Code, to the extent that:

2 “(A) The amount was subject to the income tax of another state or the
3 District of Columbia in a prior tax year; and

4 “(B) The taxpayer was a resident of the other state or the District of
5 Columbia for that prior tax year.

6 “(g) Any amounts awarded to the taxpayer by the Public Safety Memorial
7 Fund Board under ORS 243.954 to 243.974 to the extent that the taxpayer has
8 not taken the amount as a deduction in determining the taxpayer’s federal
9 taxable income for the tax year.

10 “(h) If included in taxable income for federal tax purposes, the amount
11 withdrawn during the tax year in qualified withdrawals from a college
12 savings network account established under ORS 348.841 to 348.873.

13 “[i] *For income tax years commencing on or after January 1, 2015, the*
14 *amount of any deductions or credits that the taxpayer would have been allowed*
15 *but for the provisions of section 280E of the Internal Revenue Code.]*

16 “**(i) Any federal deduction that the taxpayer would have been al-**
17 **lowed for the production, processing or sale of marijuana items au-**
18 **thorized under sections 3 to 70, chapter 1, Oregon Laws 2015, but for**
19 **section 280E of the Internal Revenue Code.**

20 “(2) There shall be added to federal taxable income:

21 “(a) Interest or dividends, exempt from federal income tax, on obligations
22 or securities of any foreign state or of a political subdivision or authority
23 of any foreign state. However, the amount added under this paragraph shall
24 be reduced by any interest on indebtedness incurred to carry the obligations
25 or securities described in this paragraph and by any expenses incurred in the
26 production of interest or dividend income described in this paragraph.

27 “(b) Interest or dividends on obligations of any authority, commission,
28 instrumentality and territorial possession of the United States that by the
29 laws of the United States are exempt from federal income tax but not from
30 state income taxes. However, the amount added under this paragraph shall

1 be reduced by any interest on indebtedness incurred to carry the obligations
2 or securities described in this paragraph and by any expenses incurred in the
3 production of interest or dividend income described in this paragraph.

4 “(c) The amount of any federal estate taxes allocable to income in respect
5 of a decedent not taxable by Oregon.

6 “(d) The amount of any allowance for depletion in excess of the taxpayer’s
7 adjusted basis in the property depleted, deducted on the taxpayer’s federal
8 income tax return for the taxable year, pursuant to sections 613, 613A, 614,
9 616 and 617 of the Internal Revenue Code.

10 “(e) For taxable years beginning on or after January 1, 1985, the dollar
11 amount deducted under section 151 of the Internal Revenue Code for personal
12 exemptions for the taxable year.

13 “(f) The amount taken as a deduction on the taxpayer’s federal return for
14 unused qualified business credits under section 196 of the Internal Revenue
15 Code.

16 “(g) The amount of any increased benefits paid to a taxpayer under
17 chapter 569, Oregon Laws 1995, under the provisions of chapter 796, Oregon
18 Laws 1991, and under section 26, chapter 815, Oregon Laws 1991, that is not
19 includable in the taxpayer’s federal taxable income under the Internal Rev-
20 enue Code.

21 “(h) The amount of any long term care insurance premiums paid or in-
22 curred by the taxpayer during the tax year if:

23 “(A) The amount is taken into account as a deduction on the taxpayer’s
24 federal return for the tax year; and

25 “(B) The taxpayer claims the credit allowed under ORS 315.610 for the tax
26 year.

27 “(i) Any amount taken as a deduction under section 1341 of the Internal
28 Revenue Code in computing federal taxable income for the tax year, if the
29 taxpayer has claimed a credit for claim of right income repayment adjust-
30 ment under ORS 315.068.

1 “(j) If the taxpayer makes a nonqualified withdrawal, as defined in ORS
2 348.841, from a college savings network account established under ORS
3 348.841 to 348.873, the amount of the withdrawal that is attributable to con-
4 tributions that were subtracted from federal taxable income under ORS
5 316.699.

6 “(3) Discount and gain or loss on retirement or disposition of obligations
7 described under subsection (2)(a) of this section issued on or after January
8 1, 1985, shall be treated for purposes of this chapter in the same manner as
9 under sections 1271 to 1283 and other pertinent sections of the Internal
10 Revenue Code as if the obligations, although issued by a foreign state or a
11 political subdivision of a foreign state, were not tax exempt under the
12 Internal Revenue Code.

13 **“SECTION 22. Sections 1 to 13 of this 2015 Act and the amendments**
14 **to ORS 305.140, 305.895 and 305.992 and section 44, chapter 1, Oregon**
15 **Laws 2015, by sections 14 to 17 of this 2015 Act apply to retail sales of**
16 **marijuana items by licensed marijuana retailers occurring on or after**
17 **January 1, 2016.**

18 **“SECTION 23. (1) Section 19 of this 2015 Act and the amendments**
19 **to ORS 316.680 by sections 20 and 21 of this 2015 Act apply to conduct**
20 **occurring on or after January 1, 2016, and to tax years beginning on**
21 **or after January 1, 2016.**

22 **“(2) The repeal of section 71, chapter 1, Oregon Laws 2015, by sec-**
23 **tion 24 of this 2015 Act applies to all tax years.**

24 **“SECTION 24. Sections 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43**
25 **and 71, chapter 1, Oregon Laws 2015, are repealed.**

26 **“SECTION 25. Section 69, chapter 1, Oregon Laws 2015, is amended to**
27 **read:**

28 **“Sec. 69. (1) Except where other punishment is specifically provided for**
29 **in sections 3 to 70, chapter 1, Oregon Laws 2015 [of this Act], violation of**
30 **any provision of sections 3 to 70, chapter 1, Oregon Laws 2015, [of this**

1 Act] is a Class A misdemeanor.

2 “[2) A violation of subsection (1) of section 40 of this Act is a Class B
3 misdemeanor.]

4 “[3) (2) Subject to ORS 153.022, violation of [any regulation
5 promulgated] a rule adopted under section 7 (2)(d), chapter 1, Oregon
6 Laws 2015, [paragraph (e) of subsection (2) of section 7 of this Act] is a Class
7 C violation.

8 **“SECTION 26. This 2015 Act takes effect on the 91st day after the
9 date on which the 2015 regular session of the Seventy-eight Legislative
10 Assembly adjourns sine die.”.**

11 _____