

**PROPOSED AMENDMENTS TO
HOUSE BILL 2041**

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

6 Delete lines 4 through 31 and delete 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 imposed by this section is a**
20 **direct tax on the consumer, for which payment upon retail sale is re-**
21 **quired to achieve convenience and facility in the collection and ad-**
22 **ministration of the tax. The tax shall be collected at the point of sale**

1 of a marijuana item by a marijuana retailer at the time at which the
2 retail sale occurs.

3 “(2) The tax imposed under this section shall be imposed at the rate
4 of:

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

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

7 “(c) 17 percent of the retail sales price of immature marijuana
8 plants;

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

10 “(e) 17 percent of the retail sales price of a cannabinoid concen-
11 trate;

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

13 “(g) 17 percent of the retail sales price of a cannabinoid product
14 that is intended to be used by applying the cannabinoid product to the
15 skin or hair; and

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

18 “(3) If the tax imposed under this section does not equal an amount
19 calculable to a whole cent, the tax shall be equal to the next higher
20 whole cent.

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

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

28 **“SECTION 3.** (1) Except as otherwise provided in sections 1 to 13
29 of this 2015 Act, the tax imposed upon the consumer under section 2
30 of this 2015 Act shall be collected at the point of sale and remitted by

1 each marijuana retailer that engages in the retail sale of marijuana
2 items. The tax is considered a tax upon the marijuana retailer that is
3 required to collect the tax, and the marijuana retailer is considered a
4 taxpayer.

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

8 “(3) The marijuana retailer shall pay the tax to the department in
9 the form and manner prescribed by the department, but not later than
10 with each quarterly return, without regard to extensions under sub-
11 section (5) of this section.

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

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

19 “(6) Interest shall be added at the rate established under ORS
20 305.220 for each month, or fraction of a month, from the time the re-
21 turn was originally required to be filed to the time of payment.

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

26 “(8)(a) The department shall first apply any overpayment of tax to
27 any marijuana tax that is then owed.

28 “(b) If after any offset against any delinquent amount the over-
29 payment of tax remains greater than \$1,000, it shall be applied as a
30 credit against future marijuana tax liabilities.

1 **“(9) The department may not make a refund of any overpayment**
2 **of tax paid under sections 1 to 13 of this 2015 Act that was credited to**
3 **the account of a marijuana retailer if the overpayment is not applied**
4 **to a marijuana tax liability within three years after the date the re-**
5 **turn was filed or the due date of the return, whichever is later.**

6 **“SECTION 4. (1) Every person who collects any amount under sec-**
7 **tion 3 of this 2015 Act shall hold the same in trust for the State of**
8 **Oregon and for the payment thereof to the Department of Revenue in**
9 **the manner and at the time provided in section 3 of this 2015 Act.**

10 **“(2) At any time a marijuana retailer fails to remit any amount**
11 **collected, the department may enforce collection by the issuance of a**
12 **distrain warrant for the collection of the delinquent amount and all**
13 **penalties, interest and collection charges accrued thereon. The war-**
14 **rant shall be issued, recorded and proceeded upon in the same manner**
15 **and shall have the same force and effect as is prescribed with respect**
16 **to warrants for the collection of delinquent income taxes.**

17 **“(3)(a) In the case of a marijuana retailer that is assessed pursuant**
18 **to the provisions of ORS 305.265 (12) and 314.407 (1), the department**
19 **may issue a notice of liability to any officer, employee or member of**
20 **the marijuana retailer within three years from the time of assessment.**
21 **Within 30 days from the date the notice of liability is mailed to the**
22 **officer, employee or member, the officer, employee or member shall**
23 **pay the assessment, plus penalties and interest, or advise the depart-**
24 **ment in writing of objections to the liability and, if desired, request a**
25 **conference. A conference shall be governed by the provisions of ORS**
26 **305.265 pertaining to a conference requested from a notice of defi-**
27 **ciency.**

28 **“(b) After a conference or, if no conference is requested, a deter-**
29 **mination of the issues considering the written objections, the depart-**
30 **ment shall mail the officer, employee or member a conference letter**

1 **affirming, canceling or adjusting the notice of liability. Within 90 days**
2 **from the date the conference letter is mailed to the officer, employee**
3 **or member, the officer, employee or member shall pay the assessment,**
4 **plus penalties and interest, or appeal to the tax court in the manner**
5 **provided for an appeal from a notice of assessment.**

6 **“(c) If the department does not receive payment or written ob-**
7 **jection to the notice of liability within 30 days after the notice of li-**
8 **ability was mailed, the notice of liability becomes final. In that event,**
9 **the officer, employee or member may appeal the notice of liability to**
10 **the tax court within 90 days after it became final in the manner pro-**
11 **vided for an appeal from a notice of assessment.**

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

26 **“(b) After a conference or, if no conference is requested, a deter-**
27 **mination of the issues considering the written objections, the depart-**
28 **ment shall mail the officer, employee or member a conference letter**
29 **affirming, canceling or adjusting the notice of determination and as-**
30 **essment. Within 90 days from the date the conference letter is mailed**

1 to the officer, employee or member, the officer, employee or member
2 shall pay the assessment, plus penalties and interest, or appeal in the
3 manner provided for an appeal from a notice of assessment.

4 “(c) If the department does not receive payment or written ob-
5 jection to the notice of determination and assessment within 30 days
6 after the notice of determination and assessment was mailed, the no-
7 tice of determination and assessment becomes final. In that event, the
8 officer, employee or member may appeal the notice of determination
9 and assessment to the tax court within 90 days after it became final
10 in the manner provided for an appeal from a notice of assessment.

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

13 “(b) Notwithstanding the confidentiality provisions of section 10 of
14 this 2015 Act, if more than one officer or employee of a corporation
15 may be held jointly and severally liable for payment of taxes, the de-
16 partment may require any or all of the officers, members or employees
17 who may be held liable to appear before the department for a joint
18 determination of liability. The department shall notify each officer,
19 member or employee of the time and place set for the determination
20 of liability.

21 “(c) Each person notified of a joint determination under this sub-
22 section shall appear and present such information as is necessary to
23 establish that person’s liability or nonliability for payment of taxes to
24 the department. If a person who was notified fails to appear, the de-
25 partment shall make its determination on the basis of all the infor-
26 mation and evidence presented. The department’s determination is
27 binding on all persons notified and required to appear under this sub-
28 section.

29 “(d)(A) If an appeal is taken to the Oregon Tax Court pursuant to
30 section 10 of this 2015 Act by any person determined to be liable for

1 unpaid taxes under this subsection, each person required to appear
2 before the department under this subsection shall be impleaded by the
3 plaintiff. The department may implead any officer, employee or mem-
4 ber who may be held jointly and severally liable for the payment of
5 taxes. Each person impleaded under this paragraph shall be made a
6 party to the action before the tax court and shall make available to
7 the tax court the information that was presented before the depart-
8 ment, as well as other information that may be presented to the court.

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

13 “(C) If a person required to appear before the court under this
14 subsection fails or refuses to appear or bring such information in part
15 or in whole, or is outside the jurisdiction of the tax court, the court
16 shall make its determination on the basis of all the evidence intro-
17 duced. Notwithstanding section 10 of this 2015 Act, the evidence con-
18 stitutes a public record and shall be available to the parties and the
19 court. The determination of the tax court is binding on all persons
20 made parties to the action under this subsection.

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

25 **“SECTION 5. (1) A marijuana retailer shall keep receipts, invoices**
26 **and other pertinent records related to retail sales of marijuana items**
27 **in the form required by the Department of Revenue. Each record shall**
28 **be preserved for five years from the time to which the record relates,**
29 **or for as long as the marijuana retailer retains the marijuana items**
30 **to which the record relates, whichever is later. During the retention**

1 period and at any time prior to the destruction of records, the de-
2 partment may give written notice to the marijuana retailer not to
3 destroy records described in the notice without written permission of
4 the department. Notwithstanding any other provision of law, the de-
5 partment shall preserve reports and returns filed with the department
6 for at least five years.

7 “(2) The department or its authorized representative, upon oral or
8 written demand, may make examinations of the books, papers, records
9 and equipment of persons making retail sales of marijuana items and
10 any other investigations as the department deems necessary to carry
11 out the provisions of sections 1 to 13 of this 2015 Act.

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

22 “(2) If a person fails to comply with a subpoena or order of the de-
23 partment or to produce or permit the examination or inspection of any
24 books, papers, records and equipment pertinent to an investigation or
25 inquiry under sections 1 to 13 of this 2015 Act, or to testify to any
26 matter regarding which the person is lawfully interrogated, the de-
27 partment may apply to the Oregon Tax Court or to the circuit court
28 of the county in which the person resides or where the person is for
29 an order to the person to attend and testify, or otherwise to comply
30 with the demand or request of the department. The department shall

1 apply to the court by ex parte motion, upon which the court shall
2 make an order requiring the person against whom the motion is di-
3 rected to comply with the request or demand of the department within
4 10 days after the service of the order, or within the additional time
5 granted by the court, or to justify the failure within that time. The
6 order shall be served upon the person to whom it is directed in the
7 manner required by this state for service of process, which service is
8 required to confer jurisdiction upon the court. Failure to obey any
9 order issued by the court under this section is contempt of court. The
10 remedy provided by this section is in addition to other remedies, civil
11 or criminal, existing under the tax laws or other laws of this state.

12 **“SECTION 7. (1) Notwithstanding the confidentiality provisions of**
13 **section 10 of this 2015 Act, the Department of Revenue may disclose**
14 **information received under sections 1 to 13 and 19 of this 2015 Act to**
15 **the Oregon Liquor Control Commission to carry out the provisions of**
16 **sections 3 to 70, chapter 1, Oregon Laws 2015, and sections 1 to 13 of**
17 **this 2015 Act.**

18 **“(2) The commission may disclose information obtained pursuant**
19 **to sections 3 to 70, chapter 1, Oregon Laws 2015, and sections 1 to 13**
20 **of this 2015 Act to the department for the purpose of carrying out the**
21 **provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, and**
22 **sections 1 to 13 of this 2015 Act.**

23 **“(3) Except as otherwise provided in sections 3 to 70, chapter 1,**
24 **Oregon Laws 2015, and sections 1 to 13 of this 2015 Act, a person**
25 **aggrieved by an act or determination of the department or its au-**
26 **thorized agent under sections 1 to 13 and 19 of this 2015 Act may ap-**
27 **peal, within 90 days after the act or determination, to the Oregon Tax**
28 **Court in the manner provided in ORS 305.404 to 305.560. These appeal**
29 **rights are the exclusive remedy available to determine the person’s**
30 **liability for the tax imposed under sections 1 to 13 of this 2015 Act.**

1 **“SECTION 8. (1) The Department of Revenue shall administer and**
2 **enforce sections 1 to 13 of this 2015 Act. The department is authorized**
3 **to establish rules and procedures for the implementation and enforce-**
4 **ment of sections 1 to 13 of this 2015 Act that are consistent with**
5 **sections 1 to 13 of this 2015 Act and that the department considers**
6 **necessary and appropriate to administer and enforce sections 1 to 13**
7 **of this 2015 Act.**

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

16 **“SECTION 9. (1)(a) When an amount represented by a marijuana**
17 **retailer at retail to a consumer as constituting the tax imposed under**
18 **sections 1 to 13 of this 2015 Act is computed upon an amount that is**
19 **not taxable or is in excess of the taxable amount and is actually paid**
20 **by the consumer to the marijuana retailer, the excess tax paid shall**
21 **be returned by the marijuana retailer to the consumer upon written**
22 **notification by the Department of Revenue or the consumer.**

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

25 **“(2) If the marijuana retailer does not return the excess tax within**
26 **60 days after mailing of the written notification required under sub-**
27 **section (1) of this section, the consumer may appeal to the department**
28 **for a refund of the amount of the excess tax, in the manner and within**
29 **the time allowed under rules adopted by the department.**

30 **“(3)(a) If excess tax is returned to the consumer by the department,**

1 the department may issue a notice of deficiency for the excess tax to
2 the marijuana retailer in the manner provided under ORS 305.265.

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

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

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

27 “(2) Upon request, the department shall transfer available moneys
28 from the suspense account to the Oregon Liquor Control Commission
29 for deposit in an account of the commission for purposes related to
30 administering and enforcing sections 3 to 70, chapter 1, Oregon Laws

1 2015.

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

8 “NOTE: Section 12 was deleted by amendment. Subsequent sections were
9 not renumbered.

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

16 “SECTION 14. Section 44, chapter 1, Oregon Laws 2015, is amended to
17 read:

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

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

22 “[~~(2)~~] (3) [*At the end of each month,*] The Oregon Liquor Control Com-
23 mission shall certify the amount of moneys available for distribution in the
24 Oregon Marijuana Account and[, *after withholding such moneys as it may*
25 *deem necessary to carry out its obligations under sections 3 to 70 of this Act,*
26 *shall within 35 days of the month for which a distribution is made*] distribute
27 the moneys as follows:

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

30 “(b) Twenty percent [*shall*] **must** be transferred to the Mental Health

1 Alcoholism and Drug Services Account established under ORS 430.380;

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

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

8 “(A) For all distributions made from the Oregon Marijuana Account be-
9 fore July 1, 2017, in such shares as the population of each city bears to the
10 population of the cities of [*the*] **this** state, as determined by [*the State Board*
11 *of Higher Education*] **Portland State University** last preceding such appor-
12 tionment, under ORS 190.510 to 190.610; and

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

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

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

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

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

1 fore July 1, 2017, in such shares as their respective populations bear to the
2 total population of [*the*] **this** state, as estimated from time to time by [*the*
3 *State Board of Higher Education*] **Portland State University**; and

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

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

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

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

21 “[~~(3)~~] **(4)** It is the intent of [*this section*] **the Legislative Assembly** that
22 the moneys distributed from the Oregon Marijuana Account to the
23 [*distributees*] **persons listed** in subsection [~~(2)~~] **(3)** of this section are in ad-
24 dition to, **and not in lieu of**, any other [*available*] moneys **available** to such
25 [*distributees and do not supplant moneys available from any other source*]
26 **persons**.

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

28 “305.140. (1) Any person having an interest in or lien upon any real
29 property may request the Department of Revenue in writing to release such
30 real property from a cloud on the title of or lien on such property existing,

1 created or continued under any one or more of the following:

2 “(a) A warrant provided for in ORS 314.430, 321.570 or 323.610 **or section**
3 **4 of this 2015 Act**; or

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

5 “(2) If, upon a request under subsection (1) of this section, the department
6 finds that a sale of such real property would not result in satisfaction in
7 whole or in part of the taxes due, it shall execute a release of such cloud
8 or lien upon such property, and such release shall be conclusive evidence of
9 the removal and extinguishment of such cloud or lien in respect of such real
10 property.

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

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

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

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

28 “(d) If there is paid to the department in partial satisfaction of the
29 amount of the warrant provided for in ORS 314.430, 321.570 or 323.610 **or**
30 **section 4 of this 2015 Act** or the amount of any lien under ORS 311.673,

1 311.679, 311.689, 311.711 or 311.771, an amount not less than the value, as
2 determined by the department, of the lien of the State of Oregon upon the
3 part of the property so to be released. In determining such value the de-
4 partment shall give consideration to the fair market value of the part of the
5 property so to be released and to such liens thereon as have priority to the
6 lien of the State of Oregon.

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

8 “305.895. (1) Except as provided in ORS 314.440 or other jeopardy assess-
9 ment procedure, the Department of Revenue shall take no action against a
10 taxpayer’s or transferee’s real or personal property before issuing a warrant
11 for the collection of tax or an amount payable by a transferee under ORS
12 311.695 as provided in ORS 314.430, 320.080, 321.570, 323.390, 323.610 and
13 324.190 **and section 4 of this 2015 Act.**

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

18 “(a) Be sent by mail, addressed to the taxpayer or transferee at the
19 taxpayer’s or transferee’s last-known address.

20 “(b) Inform the taxpayer or transferee that, even if the taxpayer or
21 transferee is compliant with an installment agreement between the taxpayer
22 or transferee and the department and is in communication with the depart-
23 ment, if the tax or any portion of the tax or the amount payable under ORS
24 311.695 is not paid within 30 days after the date of the notice and demand
25 for payment, a warrant may be issued and recorded as provided in ORS
26 314.430, 320.080, 321.570, 323.390, 323.610 and 324.190 **and section 4 of this**
27 **2015 Act.**

28 “(c) Describe in clear nontechnical terms the legal authority for the
29 warrant.

30 “(d) Contain the name, office mailing address and office telephone number

1 of the person issuing the warrant and advise the taxpayer or transferee that
2 questions or complaints concerning the warrant, other than liability for the
3 underlying tax or amount payable under ORS 311.695, may be directed to that
4 person.

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

7 “(f) Inform the taxpayer or transferee of possible consequences to the
8 taxpayer or transferee of noncompliance, and of issuance of a warrant, in-
9 cluding garnishment of wages or bank accounts and seizure and sale of real
10 or personal property.

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

12 “305.992. (1) If any returns required to be filed under ORS chapter 118,
13 314, 316, 317, 318, 321 or 323 **or sections 1 to 13 of this 2015 Act** or under
14 a local tax administered by the Department of Revenue under ORS 305.620
15 are not filed for three consecutive years by the due date (including exten-
16 sions) of the return required for the third consecutive year, there shall be a
17 penalty for each year of 100 percent of the tax liability determined after
18 credits and prepayments for each such year.

19 “(2) The penalty imposed under this section is in addition to any other
20 penalty imposed by law. However, the total amount of penalties imposed for
21 any taxable year under this section, ORS 305.265 (13), 314.400, 323.403 or
22 323.585 *[shall]* **or section 10 of this 2015 Act** may not exceed 100 percent
23 of the tax liability.

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

26 **“SECTION 19.** Section 280E of the Internal Revenue Code applies to
27 all trafficking in controlled substances in Schedule I or Schedule II
28 that is prohibited by federal law or the laws of this state, other than
29 conduct authorized under sections 3 to 70, chapter 1, Oregon Laws
30 2015.

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

2 “316.680. (1) There shall be subtracted from federal taxable income:

3 “(a) The interest or dividends on obligations of the United States and its
4 territories and possessions or of any authority, commission or
5 instrumentality of the United States to the extent includable in gross income
6 for federal income tax purposes but exempt from state income taxes under
7 the laws of the United States. However, the amount subtracted under this
8 paragraph shall be reduced by any interest on indebtedness incurred to carry
9 the obligations or securities described in this paragraph, and by any expenses
10 incurred in the production of interest or dividend income described in this
11 paragraph to the extent that such expenses, including amortizable bond pre-
12 miums, are deductible in determining federal taxable income.

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

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

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

23 “(e)(A) Federal pension income that is attributable to federal employment
24 occurring before October 1, 1991. Federal pension income that is attributable
25 to federal employment occurring before October 1, 1991, shall be determined
26 by multiplying the total amount of federal pension income for the tax year
27 by the ratio of the number of months of federal creditable service occurring
28 before October 1, 1991, over the total number of months of federal creditable
29 service.

30 “(B) The subtraction allowed under this paragraph applies only to federal

1 pension income received at a time when:

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

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

6 “(C) As used in this paragraph:

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

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

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

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

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

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

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

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

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

2 “(a) Interest or dividends, exempt from federal income tax, on obligations
3 or securities of any foreign state or of a political subdivision or authority
4 of any foreign state. However, the amount added under this paragraph shall
5 be reduced by any interest on indebtedness incurred to carry the obligations
6 or securities described in this paragraph and by any expenses incurred in the
7 production of interest or dividend income described in this paragraph.

8 “(b) Interest or dividends on obligations of any authority, commission,
9 instrumentality and territorial possession of the United States that by the
10 laws of the United States are exempt from federal income tax but not from
11 state income taxes. However, the amount added under this paragraph shall
12 be reduced by any interest on indebtedness incurred to carry the obligations
13 or securities described in this paragraph and by any expenses incurred in the
14 production of interest or dividend income described in this paragraph.

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

17 “(d) The amount of any allowance for depletion in excess of the taxpayer’s
18 adjusted basis in the property depleted, deducted on the taxpayer’s federal
19 income tax return for the taxable year, pursuant to sections 613, 613A, 614,
20 616 and 617 of the Internal Revenue Code.

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

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

27 “(g) The amount of any increased benefits paid to a taxpayer under
28 chapter 569, Oregon Laws 1995, under the provisions of chapter 796, Oregon
29 Laws 1991, and under section 26, chapter 815, Oregon Laws 1991, that is not
30 includable in the taxpayer’s federal taxable income under the Internal Rev-

1 enue Code.

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

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

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

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

12 “(j) If the taxpayer makes a nonqualified withdrawal, as defined in ORS
13 348.841, from a college savings network account established under ORS
14 348.841 to 348.873, the amount of the withdrawal that is attributable to con-
15 tributions that were subtracted from federal taxable income under ORS
16 316.699.

17 “(3) Discount and gain or loss on retirement or disposition of obligations
18 described under subsection (2)(a) of this section issued on or after January
19 1, 1985, shall be treated for purposes of this chapter in the same manner as
20 under sections 1271 to 1283 and other pertinent sections of the Internal
21 Revenue Code as if the obligations, although issued by a foreign state or a
22 political subdivision of a foreign state, were not tax exempt under the
23 Internal Revenue Code.

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

26 “316.680. (1) There shall be subtracted from federal taxable income:

27 “(a) The interest or dividends on obligations of the United States and its
28 territories and possessions or of any authority, commission or
29 instrumentality of the United States to the extent includable in gross income
30 for federal income tax purposes but exempt from state income taxes under

1 the laws of the United States. However, the amount subtracted under this
2 paragraph shall be reduced by any interest on indebtedness incurred to carry
3 the obligations or securities described in this paragraph, and by any expenses
4 incurred in the production of interest or dividend income described in this
5 paragraph to the extent that such expenses, including amortizable bond pre-
6 miums, are deductible in determining federal taxable income.

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

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

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

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

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

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

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

30 “(C) As used in this paragraph:

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

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

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

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

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

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

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

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

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

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

29 “(a) Interest or dividends, exempt from federal income tax, on obligations
30 or securities of any foreign state or of a political subdivision or authority

1 of any foreign state. However, the amount added under this paragraph shall
2 be reduced by any interest on indebtedness incurred to carry the obligations
3 or securities described in this paragraph and by any expenses incurred in the
4 production of interest or dividend income described in this paragraph.

5 “(b) Interest or dividends on obligations of any authority, commission,
6 instrumentality and territorial possession of the United States that by the
7 laws of the United States are exempt from federal income tax but not from
8 state income taxes. However, the amount added under this paragraph shall
9 be reduced by any interest on indebtedness incurred to carry the obligations
10 or securities described in this paragraph and by any expenses incurred in the
11 production of interest or dividend income described in this paragraph.

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

14 “(d) The amount of any allowance for depletion in excess of the taxpayer’s
15 adjusted basis in the property depleted, deducted on the taxpayer’s federal
16 income tax return for the taxable year, pursuant to sections 613, 613A, 614,
17 616 and 617 of the Internal Revenue Code.

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

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

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

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

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

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

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

9 “(j) If the taxpayer makes a nonqualified withdrawal, as defined in ORS
10 348.841, from a college savings network account established under ORS
11 348.841 to 348.873, the amount of the withdrawal that is attributable to con-
12 tributions that were subtracted from federal taxable income under ORS
13 316.699.

14 “(3) Discount and gain or loss on retirement or disposition of obligations
15 described under subsection (2)(a) of this section issued on or after January
16 1, 1985, shall be treated for purposes of this chapter in the same manner as
17 under sections 1271 to 1283 and other pertinent sections of the Internal
18 Revenue Code as if the obligations, although issued by a foreign state or a
19 political subdivision of a foreign state, were not tax exempt under the
20 Internal Revenue Code.

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

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

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

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

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

5 **“Sec. 69.** (1) Except where other punishment is specifically provided for
6 in sections 3 to 70, **chapter 1, Oregon Laws 2015** [*of this Act*], violation of
7 any provision of sections 3 to 70, **chapter 1, Oregon Laws 2015**, [*of this*
8 *Act*] is a Class A misdemeanor.

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

11 “[(3)] **(2)** Subject to ORS 153.022, violation of any regulation promulgated
12 under paragraph (e) of subsection (2) of section 7 of this Act is a Class C
13 violation.

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

17
