

Requested by Senator THATCHER

**PROPOSED MINORITY REPORT AMENDMENTS TO  
SENATE BILL 1532**

1 On page 1 of the printed bill, line 2, after “amending” delete the rest of  
2 the line and line 3 and insert “ORS 18.838, 18.840, 25.323, 25.333, 25.414,  
3 137.103, 258.200, 315.262, 344.750, 411.892, 419C.461, 419C.465, 470.560, 653.030,  
4 653.070, 653.606, 656.802, 657.325 and 660.142 and section 2, chapter 564,  
5 Oregon Laws 2011; and providing that this Act shall be referred to the people  
6 for their approval or rejection.”.

7 Delete lines 5 through 28 and delete pages 2 and 3 and insert:

8 **“SECTION 1. (1) The amendments to statutes and session law by  
9 sections 14 to 33 of this 2016 Act are intended to change the term  
10 ‘minimum wage’ to ‘state mandated minimum wage.’**

11 **“(2) Any remaining reference in Oregon statutory law to ‘Oregon  
12 minimum wage,’ ‘state minimum wage,’ ‘Oregon hourly minimum  
13 wage,’ ‘minimum wage established under ORS 653.025,’ ‘minimum  
14 wage prescribed by ORS 653.025,’ ‘minimum wage specified in ORS  
15 653.025’ or ‘minimum wage rate required by ORS 653.025’ shall be con-  
16 sidered a reference to ‘state mandated minimum wage.’**

17 **“(3) For the purpose of harmonizing and clarifying statutory law,  
18 the Legislative Counsel may substitute for words designating ‘Oregon  
19 minimum wage,’ ‘state minimum wage,’ ‘Oregon hourly minimum  
20 wage,’ ‘minimum wage established under ORS 653.025,’ ‘minimum  
21 wage prescribed by ORS 653.025,’ ‘minimum wage specified in ORS**

1 **653.025’ or ‘minimum wage rate required by ORS 653.025,’ wherever**  
2 **they occur in statutory law, other words designating ‘state mandated**  
3 **minimum wage.’**

4 **“SECTION 2. As used in ORS 653.025 and section 4 of this 2016 Act:**

5 **“(1) ‘Nonurban or economically distressed county’ means any of the**  
6 **following counties:**

7 **“(a) Baker;**

8 **“(b) Coos;**

9 **“(c) Crook;**

10 **“(d) Curry;**

11 **“(e) Douglas;**

12 **“(f) Gilliam;**

13 **“(g) Grant;**

14 **“(h) Harney;**

15 **“(i) Jefferson;**

16 **“(j) Josephine;**

17 **“(k) Klamath;**

18 **“(L) Lake;**

19 **“(m) Malheur;**

20 **“(n) Morrow;**

21 **“(o) Sherman;**

22 **“(p) Umatilla;**

23 **“(q) Union;**

24 **“(r) Wallowa;**

25 **“(s) Wasco; or**

26 **“(t) Wheeler.**

27 **“(2) ‘Temporary employee’ means an employee hired to cope with**  
28 **short-term or unexpected workload demands when the establishment**  
29 **of a permanently funded position is inappropriate or infeasible.**

30 **“(3) ‘Youth employee’ means an employee who is 19 years of age or**

1 **younger during the calendar year.**

2 **“SECTION 3.** ORS 653.025 is amended to read:

3 “653.025. (1) Except as provided by ORS 652.020 and the rules of the  
4 Commissioner of the Bureau of Labor and Industries issued under ORS  
5 653.030 and 653.261, for each hour of work time that the employee is gainfully  
6 employed, no employer shall employ or agree to employ any employee at  
7 wages computed at a rate lower than:

8 “[*a*] For calendar year 1997, \$5.50.]

9 “[*b*] For calendar year 1998, \$6.00.]

10 “[*c*] For calendar years after December 31, 1998, and before January 1,  
11 2003, \$6.50.]

12 “[*d*] (a) For calendar year 2003, \$6.90.

13 “[*e*] (b) [*For calendar years after 2003*] **From January 1, 2004, to De-**  
14 **cember 31, 2016,** a rate adjusted for inflation **as calculated by the com-**  
15 **missioner.**

16 **“(c) For calendar year 2017:**

17 **“(A) For employers exempt under section 4 of this 2016 Act, \$9.25**  
18 **plus an adjustment for inflation as described in subsection (2) of this**  
19 **section.**

20 **“(B) For employers not exempt under section 4 of this 2016 Act, ei-**  
21 **ther \$9.50 or the rate determined under subparagraph (A) of this par-**  
22 **agraph, whichever is higher.**

23 **“(d) For calendar years after 2017:**

24 **“(A) For employers exempt under section 4 of this 2016 Act, a rate**  
25 **adjusted for inflation as described in subsection (2) of this section.**

26 **“(B) For employers not exempt under section 4 of this 2016 Act, a**  
27 **rate adjusted for inflation as described in subsection (2) of this section.**

28 **“(2)(a) The [*Oregon*] state mandated** minimum wage shall be adjusted  
29 annually for inflation, as provided in paragraph (b) of this subsection.

30 **“(b) Except as provided in subsection (1)(c) of this section,** no later

1 than September 30 of each year, beginning in [*calendar year 2003*] **2016**, the  
2 commissioner shall calculate an adjustment of the wage amount specified in  
3 subsection (1) of this section based upon the increase, **if any**, [*if any*] from  
4 August of the preceding year to August of the year in which the calculation  
5 is made in the U.S. City Average Consumer Price Index for All Urban Con-  
6 sumers for All Items as prepared by the Bureau of Labor Statistics of the  
7 United States Department of Labor or its successor.

8 “(c) The wage amount [*established*] **as adjusted** under this subsection  
9 shall[:]

10 “[*A*] be rounded to the nearest five cents[: *and*].

11 “[*B*] **(d) The wage amount as adjusted under this subsection** [*Be-*  
12 *come*] **becomes** effective as the new [*Oregon*] **state mandated** minimum  
13 wage, replacing the [*dollar figure*] **state mandated minimum wage** speci-  
14 fied in subsection (1) of this section, on January 1 of the following year.

15 **“SECTION 4. (1) The following employers are exempt from the state**  
16 **mandated minimum wage required by ORS 653.025 (1)(c)(B) and (d)(B):**

17 **“(a) Employers who employ 50 or fewer employees;**

18 **“(b) Employers engaged in the production of agricultural products**  
19 **or forest products; and**

20 **“(c) Employers located in a nonurban or economically distressed**  
21 **county.**

22 **“(2) A local government, as defined in ORS 653.017, may set mini-**  
23 **imum wage requirements for the local government and nongovern-**  
24 **mental entities within the jurisdiction of the local government at the**  
25 **rate established by ORS 653.025 (1)(c)(A) and (d)(A).**

26 **“(3) The commissioner shall adopt rules for determining an**  
27 **employer’s location and number of employees for the purpose of this**  
28 **section as follows:**

29 **“(a) The state mandated minimum wage owed to an employee shall**  
30 **be determined by the location of an employer regardless of where an**

1 **employee performs work.**

2 **“(b) An employer’s location shall be determined by:**

3 **“(A) The location of the employer’s headquarters;**

4 **“(B) The location of the employer’s primary property; or**

5 **“(C) The location at which the majority of the work is performed**  
6 **by the employer’s employees.**

7 **“(c) The number of employees of an employer may not include:**

8 **“(A) A temporary employee who works fewer than 720 hours during**  
9 **the calendar year; or**

10 **“(B) A youth employee who works fewer than 960 hours during the**  
11 **calendar year.**

12 **“SECTION 5. (1) Section 4 of this 2016 Act is added to and made a**  
13 **part of ORS 653.010 to 653.261.**

14 **“(2) Sections 6 to 9 of this 2016 Act are added to and made a part**  
15 **of ORS chapter 315.**

16 **“SECTION 6. (1)(a) As used in this subsection:**

17 **“(A) ‘Young professional’ means an employee who is from 20 years**  
18 **of age to 26 years of age during the calendar year.**

19 **“(B) ‘Youth employee’ has the meaning given that term in section**  
20 **2 of this 2016 Act.**

21 **“(b) A credit against taxes that are otherwise due under ORS**  
22 **chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317**  
23 **or 318 is allowed to a taxpayer for the costs of complying, after Janu-**  
24 **ary 1, 2017, with the amendments to ORS 653.025 by section 3 of this**  
25 **2016 Act. The amount of the credit in any one tax year is computed**  
26 **by calculating a percentage of the net increase in wages paid by a**  
27 **taxpayer to employees of the taxpayer as required under the amend-**  
28 **ments to ORS 653.025 by section 3 of this 2016 Act during the tax year,**  
29 **as follows:**

30 **“(A) For the first 515 hours worked during the tax year by each**

1 **employee who is a young professional, 75 percent.**

2 **“(B) For the first 515 hours worked during the tax year by each**  
3 **employee who is a youth employee, 100 percent.**

4 **“(C) Except as provided in subparagraph (A) or (B) of this para-**  
5 **graph, for any number of hours worked by any employee during the**  
6 **tax year, 50 percent.**

7 **“(2) In order to qualify for the credit allowed under this section, a**  
8 **taxpayer must:**

9 **“(a) Employ not more than 100 full-time employees, other than**  
10 **employees described in section 4 (3)(c) of this 2016 Act, at any point**  
11 **during the tax year; and**

12 **“(b) Pay the taxpayer’s employees in accordance with all applicable**  
13 **federal, state and local laws.**

14 **“(3) If the amount allowable as a credit under this section, when**  
15 **added to the sum of the amount of estimated tax paid under ORS**  
16 **314.515 and any other tax prepayment amounts, exceeds the taxes im-**  
17 **posed by ORS chapters 314 and 317 for the tax year (reduced by any**  
18 **nonrefundable credits allowable for purposes of ORS chapter 317 for**  
19 **the tax year), the amount of the excess shall be refunded to the tax-**  
20 **payer as provided in ORS 314.415.**

21 **“(4) A nonresident shall be allowed the credit under this section.**  
22 **The credit shall be computed in the same manner and be subject to**  
23 **the same limitations as the credit granted to a resident.**

24 **“(5) If a change in the taxable year of the taxpayer occurs as de-**  
25 **scribed in ORS 314.085, or if the Department of Revenue terminates the**  
26 **taxpayer’s taxable year under ORS 314.440, the credit allowed by this**  
27 **section shall be prorated or computed in a manner consistent with**  
28 **ORS 314.085.**

29 **“(6) If a change in the status of a taxpayer from resident to non-**  
30 **resident or from nonresident to resident occurs, the credit allowed by**

1 this section shall be determined in a manner consistent with ORS  
2 316.117.

3 **“SECTION 7. (1) A credit against taxes that are otherwise due under**  
4 **ORS chapter 316 or, if the taxpayer is a corporation, under ORS**  
5 **chapter 317 or 318 is allowed to a taxpayer that has 50 or fewer em-**  
6 **ployees at any time during the tax year and that, after January 1, 2017,**  
7 **pays any employee at or above the state mandated minimum wage**  
8 **required by ORS 653.025 (1)(c)(B) and (d)(B) for employers with more**  
9 **than 50 employees that are subject to the state mandated minimum**  
10 **wage required by ORS 653.025 (1)(c)(B) and (d)(B). The amount of the**  
11 **credit in any one tax year is computed by calculating the difference**  
12 **in total wages paid by a taxpayer to employees above that required of**  
13 **the taxpayer during the tax year.**

14 **“(2) A taxpayer may qualify for the credit allowed under this section**  
15 **if the taxpayer pays the taxpayer’s employees in accordance with all**  
16 **applicable federal, state and local laws.**

17 **“(3) A nonresident shall be allowed the credit under this section.**  
18 **The credit shall be computed in the same manner and be subject to**  
19 **the same limitations as the credit granted to a resident.**

20 **“(4) If a change in the taxable year of the taxpayer occurs as de-**  
21 **scribed in ORS 314.085, or if the Department of Revenue terminates the**  
22 **taxpayer’s taxable year under ORS 314.440, the credit allowed by this**  
23 **section shall be prorated or computed in a manner consistent with**  
24 **ORS 314.085.**

25 **“(5) If a change in the status of a taxpayer from resident to non-**  
26 **resident or from nonresident to resident occurs, the credit allowed by**  
27 **this section shall be determined in a manner consistent with ORS**  
28 **316.117.**

29 **“SECTION 8. (1)(a) As used in this subsection, ‘youth employee’ has**  
30 **the meaning given that term in section 2 of this 2016 Act.**

1       “(b) A credit against taxes that are otherwise due under ORS  
2 chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317  
3 or 318 is allowed to a taxpayer for the costs of complying, after Janu-  
4 ary 1, 2017, with the amendments to ORS 653.025 by section 3 of this  
5 2016 Act. The amount of the credit in any one tax year is computed  
6 by multiplying by 15 percent the amount of wages paid to youth em-  
7 ployees for the first 515 hours worked during the tax year by each  
8 employee who is a youth employee. The amount of any wages for  
9 which a credit is claimed for the tax year under section 6 or 7 of this  
10 2016 Act shall be excluded from the calculation under this paragraph.

11       “(2) In order to qualify for the credit under this section, a taxpayer  
12 must pay the taxpayer’s employees in accordance with all applicable  
13 federal, state and local laws.

14       “(3) A nonresident shall be allowed the credit under this section.  
15 The credit shall be computed in the same manner and be subject to  
16 the same limitations as the credit granted to a resident.

17       “(4) If a change in the taxable year of the taxpayer occurs as de-  
18 scribed in ORS 314.085, or if the Department of Revenue terminates the  
19 taxpayer’s taxable year under ORS 314.440, the credit allowed by this  
20 section shall be prorated or computed in a manner consistent with  
21 ORS 314.085.

22       “(5) If a change in the status of a taxpayer from resident to non-  
23 resident or from nonresident to resident occurs, the credit allowed by  
24 this section shall be determined in a manner consistent with ORS  
25 316.117.

26       “SECTION 9. (1) A credit against taxes that are otherwise due under  
27 ORS chapter 316 is allowed to a taxpayer if:

28       “(a) On other than a joint return, the taxpayer’s total reported  
29 wages for the tax year, when divided by hours worked by the taxpayer,  
30 do not exceed the state mandated minimum wage required under ORS



1 **653.025; or**

2 **“(b) On a joint return, the sum of the reported wages of both tax-**  
3 **payers, when divided by the sum of hours worked by both taxpayers**  
4 **does not exceed the state mandated minimum wage required under**  
5 **ORS 653.025.**

6 **“(2) The credit allowed under this section shall equal the taxes that**  
7 **would otherwise be imposed under ORS 316.037, prior to the calculation**  
8 **of any other credit.**

9 **“(3) A nonresident shall be allowed the credit under this section.**  
10 **The credit shall be computed in the same manner and be subject to**  
11 **the same limitations as the credit granted to a resident.**

12 **“(4) If a change in the taxable year of the taxpayer occurs as de-**  
13 **scribed in ORS 314.085, or if the Department of Revenue terminates the**  
14 **taxpayer’s taxable year under ORS 314.440, the credit allowed by this**  
15 **section shall be prorated or computed in a manner consistent with**  
16 **ORS 314.085.**

17 **“(5) If a change in the status of a taxpayer from resident to non-**  
18 **resident or from nonresident to resident occurs, the credit allowed by**  
19 **this section shall be determined in a manner consistent with ORS**  
20 **316.117.**

21 **“SECTION 10.** ORS 314.752 is amended to read:

22 **“314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits al-**  
23 **lowed or allowable to a C corporation for purposes of ORS chapter 317 or**  
24 **318 shall not be allowed to an S corporation. The business tax credits al-**  
25 **lowed or allowable for purposes of ORS chapter 316 shall be allowed or are**  
26 **allowable to the shareholders of the S corporation.**

27 **“(2) In determining the tax imposed under ORS chapter 316, as provided**  
28 **under ORS 314.734, on income of the shareholder of an S corporation, there**  
29 **shall be taken into account the shareholder’s pro rata share of business tax**  
30 **credit (or item thereof) that would be allowed to the corporation (but for**

1 subsection (1) of this section) or recapture or recovery thereof. The credit (or  
2 item thereof), recapture or recovery shall be passed through to shareholders  
3 in pro rata shares as determined in the manner prescribed under section  
4 1377(a) of the Internal Revenue Code.

5 “(3) The character of any item included in a shareholder’s pro rata share  
6 under subsection (2) of this section shall be determined as if such item were  
7 realized directly from the source from which realized by the corporation, or  
8 incurred in the same manner as incurred by the corporation.

9 “(4) If the shareholder is a nonresident and there is a requirement appli-  
10 cable for the business tax credit that in the case of a nonresident the credit  
11 be allowed in the proportion provided in ORS 316.117, then that provision  
12 shall apply to the nonresident shareholder.

13 “(5) As used in this section, ‘business tax credit’ means a tax credit  
14 granted to personal income taxpayers to encourage certain investment, to  
15 create employment, economic opportunity or incentive or for charitable, ed-  
16 ucational, scientific, literary or public purposes that is listed under this  
17 subsection as a business tax credit or is designated as a business tax credit  
18 by law or by the Department of Revenue by rule and includes but is not  
19 limited to the following credits: ORS 285C.309 (tribal taxes on reservation  
20 enterprise zones and reservation partnership zones), ORS 315.104 (forestation  
21 and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways),  
22 ORS 315.141 (biomass production for biofuel), ORS 315.156 (crop gleaning),  
23 ORS 315.164 and 315.169 (agriculture workforce housing), ORS 315.204 (de-  
24 pendent care assistance), ORS 315.208 (dependent care facilities), ORS 315.213  
25 (contributions for child care), ORS 315.304 (pollution control facility), ORS  
26 315.326 (renewable energy development contributions), ORS 315.331 (energy  
27 conservation projects), ORS 315.336 (transportation projects), ORS 315.341  
28 (renewable energy resource equipment manufacturing facilities), ORS 315.354  
29 and 469B.151 (energy conservation facilities), ORS 315.507 (electronic com-  
30 merce) and ORS 315.533 (low income community jobs initiative) **and sections**

1 **6 to 8 of this 2016 Act (increased minimum wage).**

2 **“SECTION 11.** ORS 318.031 is amended to read:

3 “318.031. It being the intention of the Legislative Assembly that this  
4 chapter and ORS chapter 317 shall be administered as uniformly as possible  
5 (allowance being made for the difference in imposition of the taxes), ORS  
6 305.140 and 305.150, ORS chapter 314 and the following sections are incor-  
7 porated into and made a part of this chapter: ORS 285C.309, 315.104, 315.141,  
8 315.156, 315.204, 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.507 and  
9 315.533 **and sections 6 to 8 of this 2016 Act** (all only to the extent appli-  
10 cable to a corporation) and ORS chapter 317.

11 **“SECTION 12. Sections 6 to 9 of this 2016 Act and the amendments**  
12 **to ORS 314.752 and 318.031 by sections 10 and 11 of this 2016 Act apply**  
13 **to tax years beginning on or after January 1, 2017, and before January**  
14 **1, 2021.**

15 **“SECTION 13. By September 30 of each year, the Department of**  
16 **Revenue shall report to the Legislative Assembly, in the manner pro-**  
17 **vided by ORS 192.245, the cost for the prior year of the tax credit**  
18 **provided under section 6 of this 2016 Act.**

19 **“SECTION 14.** ORS 18.838 is amended to read:

20 “18.838. Instructions to garnishees must be in substantially the following  
21 form:

22 “

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23 INSTRUCTIONS TO GARNISHEE

24  
25 Except as specifically provided in these instructions, you must complete  
26 and deliver the Garnishee Response within seven calendar days after you  
27 receive the writ of garnishment. If the writ does not comply with Oregon  
28 law, the writ is not effective to garnish any property of the Debtor, but you  
29 still must complete and deliver the Garnishee Response. You must complete  
30 and deliver the response even though you cannot determine from the writ

1 whether you hold any property or owe any debt to the Debtor. If the seventh  
2 calendar day is a Saturday, Sunday or legal holiday, you must deliver your  
3 response on or before the next following day that is not a Saturday, Sunday  
4 or legal holiday.

5

6 The writ is not effective, and you need not make a Garnishee Response,  
7 if:

8

9 • You do not receive the writ within 60 days after the date of issuance  
10 shown on the face of the writ.

11

12 • You do not receive an original writ of garnishment or a copy of the  
13 writ.

14

15 Statutes that may affect your rights and duties under the writ can be  
16 found in ORS 18.600 to 18.850.

17

18 NOTE: The Garnishor may be the Creditor, the attorney for the Creditor  
19 or some other person who is authorized by law to issue the writ of  
20 garnishment. See the writ to determine who the Garnishor is.

21

22 STEP 1. FILL OUT THE GARNISHEE RESPONSE.

23

24 All garnishees who are required to deliver a garnishee response must fill  
25 in Part I of the Garnishee Response. Garnishees who employ the Debtor must  
26 also fill in Part II of the response. You should keep a copy of the response  
27 for your records.

28

29 Completing Part I of the Garnishee Response. If you discover before you  
30 deliver your response that a bankruptcy petition has been filed by or on be-

1 half of the Debtor, and the bankruptcy petition was filed after a judgment  
2 was entered against the Debtor or after the debt otherwise became subject  
3 to garnishment (see the date specified in the writ), you must put a check by  
4 the appropriate statement in Part I. If a bankruptcy petition has been filed,  
5 you should not make any payments to the Garnishor unless the court orders  
6 otherwise. You need not complete any other part of the response, but you  
7 still must sign the response and deliver it in the manner described in Step  
8 2 of these instructions.

9 In all other cases you must list in Part I all money and personal property  
10 of the Debtor that is in your possession, control or custody at the time of  
11 delivery of the writ. You must also list all debts that you owe to the Debtor,  
12 whether or not those debts are currently due (e.g., money loaned to you by  
13 the Debtor that is to be repaid at a later time).

14 If you are the employer of the Debtor at the time the writ is delivered to  
15 you, you must put a check by the appropriate statement in Part I. In addi-  
16 tion, you must complete Part II of the response.

17 If you believe that you may hold property of the Debtor or that you owe  
18 a debt to the Debtor, but you are not sure, you must put a check by the  
19 appropriate statement and provide an explanation. When you find out what  
20 property you hold that belongs to the Debtor, or you find out whether you  
21 owe money to the Debtor and how much, you must prepare and deliver an  
22 amended response. You must do this even if you find out that you have no  
23 property of the Debtor or that you do not owe anything to the Debtor.

24 If you determine that the writ, on its face, does not comply with Oregon  
25 laws governing writs of garnishment, or if you are unable to determine the  
26 identity of the Debtor from the information in the writ, then the writ is not  
27 effective to garnish any property of the Debtor. You must put a check by the  
28 appropriate statement in Part I and provide an explanation. You still must  
29 complete the response and deliver the response in the manner described in  
30 Step 2 of these instructions.

1 If you have received an order to withhold income that applies to the in-  
2 come of the Debtor and that order has priority over the garnishment, and if  
3 compliance with the order will reduce or eliminate the money or property  
4 that you would otherwise deliver under the garnishment, you must put a  
5 check by the appropriate statement in Part I. You still must fill out the re-  
6 mainder of the response and deliver the response in the manner described in  
7 Step 2 of these instructions. If you employ the Debtor, you still must com-  
8 plete Part II of the response.

9 If you receive notice of a challenge to the garnishment before you send  
10 your response, you must complete and deliver your response as otherwise  
11 required by these instructions. However, see Step 3 of these instructions re-  
12 garding payment of money or delivery of property after receipt of notice of  
13 a challenge to the garnishment.

14 If you owe a debt to the Debtor and the Debtor owes a debt to the holder  
15 of an underlying lien on your property, you may be able to offset the amount  
16 payable to the underlying lienholder. See ORS 18.620. You must note that  
17 you have made the offset in Part I of the response (under “Other”) and  
18 specify the amount that was offset.

19

20 Completing Part II of the Garnishee Response (employers only). You must  
21 fill in Part II of the response if you employ the Debtor on the date the writ  
22 of garnishment is delivered to you, or if you previously employed the Debtor  
23 and still owe wages to the Debtor on the date the writ is delivered to you.

24

25 Wages affected. Except as provided below, the writ garnishes all wages  
26 that you owe to the Debtor for work performed before the date you received  
27 the writ, even though the wages will not be paid until a later date. The writ  
28 also garnishes all wages that are attributable to services performed during  
29 the 90-day period following the date you received the writ, even though you  
30 would not pay the Debtor for all or part of those services until after the end

1 of the 90-day period. Wages subject to garnishment under the writ include  
2 all amounts paid by you as an employer, whether on an hourly, weekly or  
3 monthly basis, and include commission payments and bonuses.

4

5 Example 1: Debtor A is employed by you and is paid a monthly salary  
6 on the first day of each month. You receive a writ of garnishment on  
7 July 17. The writ garnishes all wages that you owe to Debtor A for  
8 work performed on or before July 17. If Debtor A was paid on July 1  
9 for services performed in the month of June, the writ garnishes Debtor  
10 A's salary for the period beginning July 1 and ending October 15 (90  
11 days after receipt of the writ).

12

13 The writ does not garnish any wages you owe to a Debtor for a specific  
14 pay period if:

15 (a) The writ is delivered to you within two business days before the  
16 Debtor's normal payday for the pay period;

17 (b) When the writ is delivered to you, the Debtor's wages are paid by di-  
18 rect deposit to a financial institution, or you use an independent contractor  
19 as payroll administrator for your payroll; and

20 (c) Before the writ was delivered to you, you issued instructions to the  
21 financial institution or the payroll administrator to pay the Debtor for the  
22 pay period.

23 If any wages are not garnishable by reason of the issuance of instructions  
24 to a financial institution or a payroll administrator as described above, you  
25 must so note in the Garnishee Response. Thereafter, you must pay to the  
26 Garnishor all wages that are subject to garnishment that are attributable to  
27 services performed by the Debtor during the 90-day period following the date  
28 you received the writ.

29

30 Calculation of wages subject to garnishment. A Wage Exemption Calcu-

1 lation form is attached to the writ of garnishment. You must use this form  
2 to calculate the amount of the Debtor's wages that is subject to garnishment.  
3 You should read the instructions printed on the Wage Exemption Calculation  
4 form to determine the normal wage exemption and the **state mandated**  
5 minimum wage exemption for each payment you make under the writ.

6 A Wage Exemption Calculation form must be sent with the first payment  
7 you make under the writ. For the 90-day period during which the writ is ef-  
8 fective, you must also fill out and return a Wage Exemption Calculation  
9 form with a subsequent payment any time the initial calculation changes.  
10 Finally, you must fill out and return a Wage Exemption Calculation form  
11 with the final payment that you make under the writ.

12

13 Payment of amount subject to garnishment. Payments under the writ must  
14 be made at the following times, unless the amount owing on the judgment  
15 or other debt is fully paid before the final payment is made or the writ is  
16 released:

17 (a) You must make a payment to the Garnishor of all wages subject to  
18 garnishment at the time you next pay wages to the Debtor. Complete the  
19 wage exemption computation, using the Wage Exemption Calculation form,  
20 to determine the portion of the Debtor's wages that is subject to  
21 garnishment. Be sure to adjust the minimum exemption amount for any  
22 payment that covers less than a full pay period. You must include a copy  
23 of the Wage Exemption Calculation form with this first payment.

24

25 Example 2: Using the facts given in Example 1, when you next make  
26 any payment of wages to Debtor A after you receive the writ on July  
27 17, you must complete the Wage Exemption Calculation form and send  
28 the form to the Garnishor along with all amounts determined to be  
29 subject to garnishment that are attributable to the period covered by  
30 the payment. If you pay Debtor A on August 1, the payment will be



1 for all wages attributable to the period beginning July 1 and ending  
2 July 31.

3  
4 (b) Unless the writ of garnishment is satisfied or released, during the  
5 90-day period following the date you received the writ, you must pay to the  
6 Garnishor all wages that are determined to be subject to garnishment  
7 whenever you issue a paycheck to the Debtor. If the Debtor is paid on a  
8 weekly basis, you must make payment under the writ on a weekly basis. If  
9 the Debtor is paid on a monthly basis, you must make payment under the  
10 writ on a monthly basis. If the amount paid to the Debtor varies from pay-  
11 check to paycheck, or changes at any time from the amount being paid at  
12 the time the writ was delivered to you, you must perform a new wage ex-  
13 emption computation to determine the amount of wages subject to  
14 garnishment under the writ. You must send a copy of the new Wage Ex-  
15 emption Calculation form with your payment to the Garnishor.

16  
17 Example 3: Using the facts given above, as you make each subsequent  
18 payment of wages to Debtor A you must make a payment of that por-  
19 tion of the Debtor's wages that are subject to garnishment. If you  
20 continue to pay Debtor A on the first of each month, payments must  
21 be made on September 1 and October 1.

22  
23 (c) Upon the expiration of the 90-day period, you must make a final pay-  
24 ment to the Garnishor for all wages that were owing to the Debtor for the  
25 work performed by the Debtor through the 90th day following your receipt  
26 of the writ. This payment may be made at the time of the Debtor's next  
27 paycheck. You will need to complete another Wage Exemption Calculation  
28 form to determine the amount of the wages subject to garnishment.

29  
30 Example 4: Using the facts given above, you must make a final pay-

1           ment for the wages owing to Debtor A for the period beginning Octo-  
2           ber 1 and ending October 15. You may make this payment at the time  
3           you issue Debtor A's paycheck on November 1, but you must make the  
4           payment at any time you issue a paycheck to Debtor A after October  
5           15. Be sure that in completing the wage exemption computation for the  
6           final payment you adjust the minimum exemption amount to take into  
7           account the fact that the period covered is only 15 days of the full  
8           month (see instructions on Wage Exemption Calculation form).

9  
10          Processing fee. You may collect a \$2 processing fee for each week of  
11          wages, or fraction of a week of wages, for which a payment is made under  
12          the writ. The fee must be collected after you make the last payment under  
13          the writ. The fee must be withheld from the wages of the debtor, and is in  
14          addition to the amounts withheld for payment to the garnishor under the  
15          writ or under any other writ you have received.

16  
17          If you receive more than one writ of garnishment. If you receive a second  
18          writ of garnishment for the same Debtor from another Garnishor, the first  
19          writ will have priority for wages. The priority of the first writ lasts for the  
20          90-day period following delivery of that writ to you, or until the first writ  
21          is paid in full, whichever comes first. In your response to the second writ,  
22          you must put a check by the appropriate statement in Part II and indicate  
23          the date on which the first writ will expire (90 days after the date you re-  
24          ceived the writ). You should make no payments under the second writ until  
25          expiration of the first writ. The expiration date of the second writ is 90 days  
26          after the date you received the second writ; the expiration date is not af-  
27          fected by any delay in payment attributable to the priority of the first writ.

28  
29          STEP 2. DELIVER THE GARNISHEE RESPONSE.

1 You must deliver your Garnishee Response and copies of the response in  
2 the manner provided in this step. The response and copies may be mailed or  
3 delivered personally.

4  
5 You must complete and deliver the Garnishee Response within seven  
6 calendar days after you receive the writ of garnishment. If the seventh cal-  
7 endar day is a Saturday, Sunday or legal holiday, you must deliver your re-  
8 sponse on or before the next following day that is not a Saturday, Sunday  
9 or legal holiday.

10

11 If you are required to hold any property under the writ or make any  
12 payment under the writ, either at the time of making your response or later,  
13 you must:

14 (a) Send the original of your Garnishee Response to the Garnishor at the  
15 address indicated on the writ under Important Addresses.

16 (b) Send a copy of your Garnishee Response to the court administrator  
17 at the address indicated on the writ under Important Addresses.

18 (c) Send a copy of your Garnishee Response to the Debtor if an address  
19 is indicated on the writ under Important Addresses.

20

21 If you are not required to hold any property under the writ or make any  
22 payment under the writ, either at the time of making your response or later,  
23 you must:

24 (a) Send the original of your Garnishee Response to the Garnishor at the  
25 address indicated on the writ under Important Addresses.

26 (b) Send a copy of your Garnishee Response to the Debtor if an address  
27 is indicated on the writ under Important Addresses.

28

29 STEP 3. DELIVER THE FUNDS OR OTHER PROPERTY.

30

1 As long as the writ is in effect, you may be liable to the Creditor if you  
2 pay any debt or turn over any property to the Debtor except as specifically  
3 allowed by law. If you have any money or property of the Debtor in your  
4 possession, control or custody at the time of delivery of the writ, or owe any  
5 debt to the Debtor, you must pay the money or hold the property as required  
6 by this step. Exceptions to this requirement are listed below.

7

8 IF YOU ARE HOLDING MONEY FOR THE DEBTOR OR OWE A DEBT  
9 THAT IS CURRENTLY DUE, you must pay the money to the Garnishor with  
10 your response. You must send your payment to the Garnishor at the address  
11 indicated on the writ under Important Addresses. Make your check payable  
12 to the Garnishor.

13

14 IF YOU OWE A DEBT TO THE DEBTOR THAT WILL BECOME DUE  
15 WITHIN 45 DAYS AFTER THE DATE YOU RECEIVED THE WRIT, you  
16 must send your payment directly to the Garnishor at the address provided  
17 in the writ when the debt becomes due. Make your check payable to the  
18 Garnishor.

19

20 IF YOU ARE HOLDING PROPERTY THAT BELONGS TO THE  
21 DEBTOR, OR OWE A DEBT TO THE DEBTOR THAT WILL NOT BECOME  
22 DUE WITHIN 45 DAYS AFTER THE DATE YOU RECEIVED THE WRIT,  
23 you must keep the property or debt in your possession, control or custody  
24 until you receive written notice from the Sheriff. The Sheriff's notice will  
25 tell you what to do with the property or debt. If you have followed all of the  
26 instructions in the writ and you receive no notice from the Sheriff within  
27 30 days after the date on which you delivered your Garnishee Response, you  
28 may treat the writ as being of no further force or effect.

29

30 EXCEPTIONS:

1        1. Challenge to garnishment or specific directions from court. If you are  
2 making any payments under the garnishment and before making a payment  
3 you receive notice of a challenge to the garnishment from the court, or re-  
4 ceive a specific direction from the court to make payments to the court, you  
5 must send or deliver the payment directly to the court administrator. If the  
6 money is currently due when you receive the notice, send the payment  
7 promptly to the court. If the payment is for a debt that is payable within 45  
8 days after you receive the writ, make the payment to the court promptly  
9 when it becomes due. If you make payment by check, make the check payable  
10 to the State of Oregon. Because you may be liable for any payment that does  
11 not reach the court, it is better not to send cash by mail.

12        A challenge to the garnishment does not affect your duty to follow the  
13 instructions you receive from the Sheriff for property that belongs to the  
14 Debtor and debts that you owe to the Debtor that do not become due within  
15 45 days.

16

17        2. Previous writ of garnishment. If you receive a second writ of  
18 garnishment for the same Debtor from another Garnishor, the first writ will  
19 have priority and you need not make payments or deliver property under the  
20 second writ to the extent that compliance with the first writ will reduce or  
21 eliminate the payment of money or delivery of property that you would oth-  
22 erwise make under the garnishment. You must still deliver a Garnishee Re-  
23 sponse to the second writ, and must commence payment under the second  
24 writ as soon as the first writ is satisfied or expires.

25

26        3. Offset for payment of underlying lien. If you owe a debt to the Debtor  
27 and the Debtor owes a debt to the holder of an underlying lien on your  
28 property, you may be able to offset the amount payable to the underlying  
29 lienholder. See ORS 18.620.

30

1     4. Subsequent events:

2  
3     (a) Bankruptcy. If you make your response and then discover that a vol-  
4 untary or involuntary bankruptcy petition has been filed by or on behalf of  
5 the Debtor after the judgment was entered against the Debtor or after the  
6 debt otherwise became subject to garnishment (see date in writ), you may  
7 not make any further payments or delivery of property under the writ unless  
8 the court orders otherwise. If you have not delivered all property that is  
9 subject to garnishment under this writ when you discover that a bankruptcy  
10 petition has been filed, you must mail the following notice to the Garnishor  
11 and to the Debtor.

12  
13     (b) Order to withhold income. If you make your response and then receive  
14 an order to withhold income that has priority over the writ, you may make  
15 payments or deliver property under the writ only after payment of the  
16 amounts required under the order to withhold income. If you have not de-  
17 livered all property that is subject to garnishment under this writ when you  
18 receive an order to withhold income that has priority, you must mail the  
19 following notice to the Garnishor and to the Debtor.

20     “ \_\_\_\_\_

21                                    SUPPLEMENTAL GARNISHEE  
22                                    RESPONSE

23  
24     TO: The Garnishor and the Debtor

25  
26     RE: Writ of garnishment received \_\_\_\_\_, 2\_\_ (date), in the case of  
27 \_\_\_\_\_ (Plaintiff) vs. \_\_\_\_\_ (Defendant), Circuit Court of \_\_\_\_\_  
28 County, Oregon, Case No. \_\_\_\_\_.

29  
30     The undersigned Garnishee furnished a Garnishee Response to this writ

1 of garnishment on \_\_\_\_\_, 2\_\_ (date). Since that time (check appropriate  
2 statement):

3

4 — I have discovered that a voluntary or involuntary bankruptcy petition  
5 has been filed by or on behalf of the Debtor after the judgment was  
6 entered against the Debtor or after the debt otherwise became subject  
7 to garnishment.

8

9 — I have received an order to withhold income of the Debtor by reason  
10 of a support obligation. Under ORS 25.375, the order to withhold in-  
11 come has priority over any other legal process under Oregon law  
12 against the same income. The withholding of income pursuant to the  
13 order to withhold income might reduce or eliminate subsequent pay-  
14 ments under the garnishment. (Provide details, including the name of  
15 the agency serving the order to withhold, the date the order was  
16 served on you and the amounts to be withheld.)

17

18 Dated \_\_\_\_\_, 2\_\_

19

20 \_\_\_\_\_

21 Name of Garnishee

22

23 \_\_\_\_\_

24 Signature

25

26 \_\_\_\_\_

27 Address

28 “ \_\_\_\_\_

29

SPECIAL INSTRUCTIONS FOR BANKS  
AND OTHER FINANCIAL INSTITUTIONS

30

1 Unless a Notice of Right to Garnish Federal Benefits from the United  
2 States Government or from a state child support enforcement agency is at-  
3 tached to or included in the garnishment, you must conduct a garnishment  
4 account review for each account that you hold for the debtor. If a Notice  
5 of Right to Garnish Federal Benefits from the United States Government or  
6 from a state child support enforcement agency is attached to or included in  
7 the garnishment, you should not conduct a garnishment account review, and  
8 should proceed upon the garnishment in the normal manner.

9 If you hold an account for the debtor, and any of the payments listed  
10 below has been deposited in the account by direct deposit or electronic pay-  
11 ment during the lookback period described in ORS 18.784 (2) (the period that  
12 begins on the date preceding the date of your garnishment account review  
13 and that ends on the corresponding date of the month two months earlier,  
14 or on the last day of the month two months earlier if the corresponding date  
15 does not exist), an amount equal to the lesser of the sum of those payments  
16 or the total balance in the debtor's account is not subject to garnishment,  
17 and you may not deliver that amount to the garnishor:

18 (a) Federal benefit payments as defined in ORS 18.600 (payments from the  
19 United States Social Security Administration, the United States Department  
20 of Veterans Affairs, the United States Office of Personnel Management or  
21 the Railroad Retirement Board);

22 (b) Payments from a public or private retirement plan as defined in ORS  
23 18.358;

24 (c) Public assistance or medical assistance, as defined in ORS 414.025,  
25 payments from the State of Oregon or an agency of the State of Oregon;

26 (d) Unemployment compensation payments from the State of Oregon or  
27 an agency of the State of Oregon;

28 (e) Black lung benefits payments from the United States Department of  
29 Labor; and

30 (f) Workers' compensation payments from a workers' compensation car-



1 rier.

2

3 If the Garnishor fails to pay the search fee required by ORS 18.790 and  
4 you do not employ the Debtor, you are not required to deliver a Garnishee  
5 Response and you may deal with any property of the Debtor as though the  
6 garnishment had not been issued.

7

8 If the Debtor owes a debt to you that was due at the time you received  
9 the writ of garnishment, you may be able to offset the amount of that debt.  
10 See ORS 18.795. You must note that you have made the offset in Part I of  
11 the Garnishee Response (under "Other") and specify the amount that was  
12 offset.

13

14 Before making a payment under the writ, you may first deduct any pro-  
15 cessing fee that you are allowed under ORS 18.790. If you are required to  
16 conduct a garnishment account review, you may not charge or collect a  
17 processing fee against any amount that is not subject to garnishment, and  
18 may not charge or collect a garnishment processing fee against any amounts  
19 in the account after the date that you conduct the review.

20

21 You need not deliver any property contained in a safe deposit box unless  
22 the Garnishor pays you in advance for the costs that will be incurred in  
23 gaining entry to the box. See ORS 18.792.

24

25 If you are required to conduct a garnishment account review and you  
26 determine from the review that one or more of the payments listed in ORS  
27 18.784 (3) have been deposited into the debtor's account by direct deposit or  
28 electronic payment during the lookback period described in ORS 18.784 (2),  
29 and that there is a positive balance in the account, you must issue a notice  
30 to the account holder in substantially the form set forth in ORS 18.847. The

1 notice must be issued directly to the account holder or to a fiduciary who  
2 administers the account and receives communications on behalf of the ac-  
3 count holder. The notice must be sent separately to the account holder and  
4 may not be included with other materials being provided to the account  
5 holder that do not relate to the garnishment. You must send the notice to  
6 the account holder within three business days after you complete the  
7 garnishment account review. You may issue one notice with information re-  
8 lated to multiple accounts of a single account holder.

9 “ \_\_\_\_\_

10 **“SECTION 15.** ORS 18.840 is amended to read:

11 “18.840. A wage exemption calculation form must be delivered to the  
12 garnishee with each writ of garnishment. A wage exemption calculation form  
13 must be in substantially the following form:

14 “ \_\_\_\_\_

15 **WAGE EXEMPTION CALCULATION**

16 (to be filled out by employers only)

17

18 1. Debtor’s gross wages  
19 for period covered by this  
20 payment..... \$ \_\_\_\_\_

21 2. Total amount required to be  
22 withheld by law for amount in Line 1  
23 (Federal and state  
24 withholding, Social  
25 Security, etc.)..... \$ \_\_\_\_\_

26 3. Debtor’s disposable wages  
27 (Subtract Line 2  
28 from Line 1)..... \$ \_\_\_\_\_

29 4. Normal exemption  
30 (Enter 75 percent

1                    of Line 3)..... \$ \_\_\_\_\_

2 5. Minimum exemption (check one)

3     — \$218 (payment of wages weekly)

4     — \$435 (payment of wages every

5     two weeks)

6     — \$468 (payment of wages half-monthly)

7     — \$936 (payment of wages monthly)

8     — \$\_\_\_\_\_ (Any other period longer

9     than one week, including partial

10    payments for less than full pay

11    period) (Multiply \$218 by number

12    of weeks or fraction of a week)

13 6. Wages exempt from garnishment

14                    (Line 4 or 5,

15                    whichever is greater)..... \$ \_\_\_\_\_

16 7. Nonexempt wages

17                    (Subtract Line 6

18                    from Line 3)..... \$ \_\_\_\_\_

19 8. Amount withheld for this pay period

20    pursuant to a support order under

21    support withholding process or under

22    another writ with priority..... \$ \_\_\_\_\_

23 9. Wages subject to garnishment

24                    (Subtract Line 8

25                    from Line 7)..... \$ \_\_\_\_\_

26

27

28

29

**INSTRUCTIONS FOR WAGE  
EXEMPTION CALCULATION FORM**

30     If you employ the Debtor named in the writ of garnishment, you must fill

1 out and return this Wage Exemption Calculation form. A Wage Exemption  
2 Calculation form must be sent with the first payment you make under the  
3 writ. For the 90-day period during which the writ is effective, you must also  
4 fill out and return a Wage Exemption Calculation form with a subsequent  
5 payment any time the initial calculation changes. Finally, you must fill out  
6 and return a Wage Exemption Calculation form with the final payment that  
7 you make under the writ.

8

9 Normal wage exemption. The wage exemption calculation is based on the  
10 amount of the payment you make under the writ of garnishment. The normal  
11 wage exemption in Line 4 is 75 percent of the employee's disposable wages  
12 in Line 3.

13

14 State mandated minimum wage exemption. The minimum exemption in  
15 Line 5 is also based on the amount of the payment you are making. The  
16 minimum exemption is designed to ensure that an employee receives at least  
17 a certain minimum amount in any one-week period. If the payment is for a  
18 one-week period (without regard to whether the period is a calendar week  
19 or any other seven-day period), the minimum exemption is \$218. The mini-  
20 mum exemption is \$435 if the payment is for a two-week period. If the pay-  
21 ment is for one-half of one month (i.e., the Debtor is paid twice each month),  
22 the minimum exemption is \$468. The minimum exemption for a monthly  
23 payment is \$936.

24 If the payment you are making is based on some period of time other than  
25 one week, two weeks, half month or month, and the payment is for more than  
26 one week, you must calculate the minimum exemption by multiplying \$218  
27 by the number of weeks covered by the paycheck, including any fraction of  
28 a week. You should round the amount calculated to the nearest dollar.

29

30 Example 1: You pay Debtor A every 10 days. Each 10-day period is

1 equal to 1.429 weeks (10 divided by 7). The minimum exemption is \$312  
2 (\$218 × 1.429 rounded to the nearest dollar).

3  
4 You must use this same calculation for computing the minimum ex-  
5 emption when making a payment for less than a full pay period (e.g., for the  
6 final payment at the end of the 90-day period covered by the writ).

7  
8 Example 2: You pay Debtor A on a monthly basis. You are required  
9 to make a final payment under a writ of garnishment for the wages  
10 owing to Debtor A for the period beginning October 1 and ending Oc-  
11 tober 15. This period is equal to 2.143 weeks (15 divided by 7). The  
12 minimum exemption is \$467 (\$218 × 2.143 rounded to the nearest dol-  
13 lar).

14  
15 The amount of time actually worked by the Debtor during the period  
16 covered by the paycheck does not affect the calculation of the minimum ex-  
17 emption.

18  
19 Example 3: You pay Debtor A on a weekly basis. Debtor A works two  
20 days per week. The minimum exemption is \$218 for each weekly pay-  
21 ment you make for Debtor A.

22  
23 If the payment you are making is based on a period of time less than one  
24 week, the **state mandated** minimum wage exemption may not exceed \$218  
25 for any one-week period.

26  
27 If you receive more than one writ of garnishment. If you receive more  
28 than one writ of garnishment for the same debtor, the writs have priority  
29 based on the date on which you receive them. If the full amount of wages  
30 subject to garnishment for a given pay period is paid on the first writ, you

1 should not make any payment on subsequently received writs until the first  
2 writ expires. In some cases, it may be necessary to make payments on two  
3 or more writs for the same pay period.

4

5 Example 4. You have received two writs of garnishment for Debtor  
6 A. You pay Debtor A on a monthly basis. The first writ expires on  
7 October 16. The second writ will not expire until November 15. You  
8 will need to prepare two wage exemption calculation forms for Debtor  
9 A's October wages and make payments under both writs. The wage  
10 exemption calculation form for the first writ will be for the wages at-  
11 tributable to October 1 to October 15 as described in Example 2. The  
12 wage exemption calculation form for the second writ will be for all  
13 wages for the month of October, but the amounts withheld under the  
14 first writ must be subtracted on Line 8 to determine the October wages  
15 subject to garnishment under the second writ.

16 “

---

17 **“SECTION 16.** ORS 25.323 is amended to read:

18 “25.323. (1) Every child support order must include a medical support  
19 clause.

20 “(2) Whenever a child support order that does not include a medical sup-  
21 port clause is modified the modification must include a medical support  
22 clause.

23 “(3) A medical support clause may require that medical support be pro-  
24 vided in more than one form, and may make the requirement that medical  
25 support be provided in a particular form contingent on the availability of  
26 another form of medical support.

27 “(4) A medical support clause must require that one or both parents pro-  
28 vide private health care coverage for a child that is appropriate and avail-  
29 able at the time the order is entered. If private health care coverage for a  
30 child is not appropriate and available at the time the order is entered, the

1 order must:

2 “(a) Require that one or both parents provide private health care coverage  
3 for the child at any time thereafter when such coverage becomes available;  
4 and

5 “(b) Either require the payment of cash medical support, or include  
6 findings on why cash medical support has not been required.

7 “(5) For the purposes of subsection (4) of this section, private health care  
8 coverage is appropriate and available for a child if the coverage:

9 “(a) Is accessible, as described in subsection (6) of this section;

10 “(b) Is reasonable in cost and does not require the payment of unreason-  
11 able deductibles or copayments; and

12 “(c) Provides coverage, at a minimum, for medical expenses, hospital ex-  
13 penses, preventive care, emergency care, acute care and chronic care.

14 “(6) Private health care coverage is accessible for the purposes of sub-  
15 section (5)(a) of this section if:

16 “(a) The coverage will be available for at least one year, based on the  
17 work history of the parent providing the coverage; and

18 “(b) The coverage either does not have service area limitations or the  
19 child lives within 30 miles or 30 minutes of a primary care provider who is  
20 eligible for payment under the coverage.

21 “(7) A medical support clause may not order a providing party to pay cash  
22 medical support or to pay to provide health care coverage if the providing  
23 party’s income is equal to or less than the [*Oregon*] **state mandated** mini-  
24 mum wage for full-time employment.

25 “(8) Cash medical support and the cost of other medical support ordered  
26 under a medical support clause constitute a child support obligation and  
27 must be included in the child support calculation made under ORS 25.275.

28 **“SECTION 17.** ORS 25.333 is amended to read:

29 “25.333. (1) When the enforcing agency issues a medical support notice  
30 under ORS 25.325, the enforcing agency shall notify the parties by regular

1 mail to the last known addresses of the parties:

2 “(a) That the notice has been sent to the providing party’s employer; and

3 “(b) Of the providing party’s rights and duties under the notice.

4 “(2) A providing party may contest a medical support notice within 30  
5 days after the date the premium is first withheld pursuant to the notice or,  
6 if the health benefit plan is provided at no cost to the providing party, the  
7 date the first premium is paid by the employer.

8 “(3) The only basis for contesting a medical support notice is a mistake  
9 of fact. A ‘mistake of fact’ means any of the following:

10 “(a) No order to provide health care coverage under a health benefit plan  
11 has been issued in regard to the providing party’s child;

12 “(b) The amount to be withheld for premiums is greater than is permis-  
13 sible under ORS 25.331;

14 “(c) The alleged providing party is not the party from whom health care  
15 coverage is required; or

16 “(d) The providing party’s income is equal to or less than [*Oregon*] **state**  
17 **mandated** minimum wage for full-time employment.

18 “(4) The providing party may contest the medical support notice by re-  
19 questing an administrative review. After receiving a request for review and  
20 within 45 days after the date the premium is first withheld pursuant to the  
21 medical support notice, the enforcing agency shall determine, based on an  
22 evaluation of the facts, whether the withholding for premiums may continue.  
23 The enforcing agency shall inform the parties of the determination in writing  
24 and include information regarding the right to appeal the determination.

25 “(5) Any appeal of the enforcing agency’s determination under subsection  
26 (4) of this section is to the circuit court for a hearing under ORS 183.484.

27 “(6) The initiation of proceedings to contest a medical support notice or  
28 an appeal of the enforcing agency’s determination under this section does  
29 not stay the withholding of premiums.

30 **“SECTION 18.** ORS 25.414 is amended to read:



1       “25.414. (1) The withholder shall withhold from the obligor’s disposable  
2 monthly income, other than workers’ compensation under ORS chapter 656  
3 or unemployment compensation under ORS chapter 657, the amount stated  
4 in the order to withhold. The entity issuing the order to withhold shall  
5 compute this amount subject to the following:

6       “(a) If withholding is for current support only, the amount to be withheld  
7 is the amount specified as current support in the support order.

8       “(b) If withholding is for current support and there is an arrearage, the  
9 amount to be withheld is 120 percent of the amount specified as current  
10 support in the support order.

11       “(c) If withholding is only for arrearage, the amount to be withheld is one  
12 of the following:

13       “(A) The amount of the last ordered monthly support.

14       “(B) If there is no last ordered monthly support amount, the monthly  
15 support amount used to calculate the arrearage amount specified in the order  
16 or judgment for arrearage.

17       “(C) If there is no last ordered monthly support amount and if there was  
18 no monthly support amount, an amount calculated under the formula estab-  
19 lished under ORS 25.275. For purposes of this subparagraph, this calculation  
20 shall be based on the obligor’s current monthly gross income or, if the  
21 obligor’s current monthly gross income is not known, the [Oregon] **state**  
22 **mandated** hourly minimum wage converted to a monthly amount based upon  
23 a 40-hour workweek, zero income for the obligee, and one joint child, re-  
24 gardless of how many children the parties may actually have. No rebuttals  
25 to this calculation may be allowed.

26       “(d) Notwithstanding the amount determined to be withheld under para-  
27 graph (c) of this subsection, the obligor must retain disposable monthly in-  
28 come of at least 160 times the applicable federal minimum hourly wage  
29 prescribed by section 6 (a)(1) of the Fair Labor Standards Act of 1938 (29  
30 U.S.C. 206) or any future minimum hourly wages prescribed in that section,

1 if the order to withhold is issued for:

2 “(A) Disability benefits payments from the United States Social Security  
3 Administration;

4 “(B) Black lung benefits payments from the United States Department of  
5 Labor; or

6 “(C) Disability benefits payments from the United States Department of  
7 Veterans Affairs.

8 “(2) The amount to be withheld from unemployment compensation under  
9 ORS chapter 657 is calculated as follows:

10 “(a) If withholding is for a current support order, regardless of the ex-  
11 istence of arrearage, the amount to be withheld is the lesser of:

12 “(A) Twenty-five percent of the benefits paid; or

13 “(B) The current monthly support obligation. The entity issuing the order  
14 to withhold may convert the monthly support obligation amount to a per-  
15 centage to be withheld from each benefits payment.

16 “(b) If withholding is for arrearage only, the amount to be withheld is the  
17 lesser of:

18 “(A) Fifteen percent of the benefits paid; or

19 “(B) The amount of the last ordered monthly support obligation. The en-  
20 tity issuing the order to withhold may convert the last ordered monthly  
21 support obligation amount to a percentage to be withheld from each benefits  
22 payment.

23 “(c) The withholder may not charge or collect a processing fee when  
24 withholding from unemployment compensation.

25 “(3) The amount to be withheld from workers’ compensation under ORS  
26 chapter 656 is set forth in ORS 656.234.

27 “(4) Notwithstanding any other provision of this section, when withhold-  
28 ing is from a lump sum payment or benefit, including but not limited to  
29 retroactive workers’ compensation benefits, lump sum retirement plan dis-  
30 bursements or withdrawals, insurance payments or settlements, severance

1 pay, bonus payments or any other similar payments or benefits that are not  
2 periodic recurring income, the amount subject to withholding for payment  
3 of a support obligation may not exceed one-half of the amount of the lump  
4 sum payment or benefit.

5 “(5)(a) Notwithstanding any other provision of this section, when the  
6 withholding is only for arrearage, the administrator shall set a lesser amount  
7 to be withheld if the obligor demonstrates the withholding is prejudicial to  
8 the obligor’s ability to provide for a child the obligor has a duty to support  
9 or the obligor’s ability to provide for the obligor’s basic needs. The factors  
10 to be considered by the administrator in determining whether the obligor can  
11 provide for the obligor’s basic needs include but are not limited to:

12 “(A) The health expenses of the obligor;

13 “(B) A verified disability affecting the obligor’s ability to work;

14 “(C) Whether the obligor’s income remaining after withholding would be  
15 less than the self-support reserve established by rule of the Department of  
16 Justice under paragraph (c) of this subsection;

17 “(D) The available resources of the obligor; and

18 “(E) The number and basic needs of other persons in the obligor’s house-  
19 hold.

20 “(b) The administrator shall establish a procedure to give advance and  
21 periodic notice to the obligor of the provisions of paragraph (a) of this sub-  
22 section and of the means to reduce the amount stated in the order to with-  
23 hold.

24 “(c) The Department of Justice shall adopt rules to implement this sub-  
25 section.

26 “(6) Except as provided in subsection (2) of this section, the withholder  
27 may deduct from the obligor’s disposable income a monthly processing fee  
28 not to exceed \$5. The processing fee is in addition to the amount calculated  
29 to be withheld for support, unless the amount to be withheld for support is  
30 the maximum allowed under subsection (8) of this section, in which case the

1 fee is deducted from the amount withheld as support.

2 “(7) If there are multiple withholding orders against the same obligor, the  
3 amount to be withheld is the sum of each support order calculated inde-  
4 pendently.

5 “(8) No withholding as calculated under this section, including the pro-  
6 cessing fee permitted in subsection (6) of this section, shall exceed 50 percent  
7 of the obligor’s net disposable income. The limit established in this sub-  
8 section applies whenever withholding is implemented under this section,  
9 whether by a single order or by multiple orders against the same obligor.

10 “(9) When the obligor’s income is not sufficient for the withholder to fully  
11 comply with each withholding order, the withholder shall withhold the  
12 maximum amount allowed under this section. If all withholding orders for a  
13 particular obligor are payable to or through the department, the withholder  
14 shall pay to the department the income withheld and the department shall  
15 determine priorities for allocating income withheld to multiple child support  
16 cases relative to that obligor. If one or more of the withholding orders for  
17 a particular obligor require payment other than to or through the depart-  
18 ment, the withholder shall use the following to determine priorities for  
19 withholding and allocating income withheld to multiple child support cases:

20 “(a) If the amount withheld from the obligor’s income is sufficient to pay  
21 the current support due to each case but is not enough to fully comply with  
22 the withholding order for each case where past due support is owed, the  
23 withholder shall:

24 “(A) Pay to each case the amount of support due for the current month;  
25 and

26 “(B) Pay the remainder of the amount withheld in equal amounts to each  
27 case where past due support is owed. However, no case shall receive more  
28 than the total amount of current support and past due support owed to that  
29 case at the time the payment is made.

30 “(b) If the amount withheld is not sufficient to pay the current support

1 due to each case, each case shall be paid a proportionate share of the amount  
2 withheld. The withholder shall determine this for each case by dividing the  
3 monthly amount ordered as current support for that case by the combined  
4 monthly amount ordered as current support for all cases relative to the same  
5 obligor, and multiplying this percentage by the total amount withheld.

6 “(10) An order to withhold income is not subject to the limitations of ORS  
7 18.385.

8 “(11) A withholder shall withhold funds as directed in the order to with-  
9 hold, except that when a withholder receives an income-withholding order  
10 issued by another state, the withholder shall apply the income-withholding  
11 law of the state of the obligor’s principal place of employment in determin-  
12 ing:

13 “(a) The withholder’s fee for processing an income-withholding order;

14 “(b) The maximum amount permitted to be withheld from the obligor’s  
15 income;

16 “(c) The time periods within which the withholder must implement the  
17 income-withholding order and forward the child support payment;

18 “(d) The priorities for withholding and allocating income withheld for  
19 multiple child support obligees; and

20 “(e) Any withholding terms or conditions not specified in the order.

21 **“SECTION 19.** ORS 137.103 is amended to read:

22 “137.103. As used in ORS 137.101 to 137.109:

23 “(1) ‘Criminal activities’ means any offense with respect to which the  
24 defendant is convicted or any other criminal conduct admitted by the de-  
25 fendant.

26 “(2) ‘Economic damages’:

27 “(a) Has the meaning given that term in ORS 31.710, except that ‘eco-  
28 nomic damages’ does not include future impairment of earning capacity; and

29 “(b) In cases involving criminal activities described in ORS 163.263,  
30 163.264 or 163.266, includes the greater of:

1 “(A) The value to the defendant of the victim’s services as defined in ORS  
2 163.261; or

3 “(B) The value of the victim’s services, as defined in ORS 163.261, com-  
4 puted using the **state mandated** minimum wage established under ORS  
5 653.025 and the overtime provisions of the federal Fair Labor Standards Act  
6 of 1938 (29 U.S.C. 201 et seq.).

7 “(3) ‘Restitution’ means full, partial or nominal payment of economic  
8 damages to a victim. Restitution is independent of and may be awarded in  
9 addition to a compensatory fine awarded under ORS 137.101.

10 “(4) ‘Victim’ means:

11 “(a) The person or decedent against whom the defendant committed the  
12 criminal offense, if the court determines that the person or decedent has  
13 suffered or did suffer economic damages as a result of the offense.

14 “(b) Any person not described in paragraph (a) of this subsection whom  
15 the court determines has suffered economic damages as a result of the  
16 defendant’s criminal activities.

17 “(c) The Criminal Injuries Compensation Account, if it has expended  
18 moneys on behalf of a victim described in paragraph (a) of this subsection.

19 “(d) An insurance carrier, if it has expended moneys on behalf of a victim  
20 described in paragraph (a) of this subsection.

21 “(e) Upon the death of a victim described in paragraph (a) or (b) of this  
22 subsection, the estate of the victim.

23 “(f) The estate, successor in interest, trust, trustee, successor trustee or  
24 beneficiary of a trust against which the defendant committed the criminal  
25 offense, if the court determines that the estate, successor in interest, trust,  
26 trustee, successor trustee or beneficiary of a trust suffered economic damages  
27 as a result of the offense.

28 “(5) ‘Victim’ does not include any coparticipant in the defendant’s crimi-  
29 nal activities.

30 **SECTION 20.** Section 2, chapter 564, Oregon Laws 2011, is amended to

1 read:

2 “**Sec. 2.** (1) As used in this section:

3 “(a) ‘Discretionary local permit’ includes local land use permits and li-  
4 censes.

5 “(b) ‘Discretionary state permit’ does not include a permit or license is-  
6 sued by a state permitting agency pursuant to a federally delegated program.

7 “(c) ‘Industrial use’ means employment activities generating income from:

8 “(A) The production, handling or distribution of goods including, but not  
9 limited to, manufacturing, assembly, fabrication, processing, storage, logis-  
10 tics, warehousing, importation, distribution and transshipment and research  
11 and development; and

12 “(B) Services sold in a traded sector, as defined in ORS 285A.010.

13 “(d) ‘State permitting agencies’ means the Department of Environmental  
14 Quality, the Department of State Lands and the Department of Transporta-  
15 tion.

16 “(2) Industrial development projects of state significance are projects that:

17 “(a) Create jobs with average wages above 180 percent of the **state**  
18 **mandated** minimum wage.

19 “(b) Create a large number of new jobs in relation to the economy and  
20 population of the area directly impacted by the development.

21 “(c) Create permanent jobs in industrial uses.

22 “(d) Involve a significant investment of capital in relation to the economy  
23 and population of the area directly impacted by the development.

24 “(e) Have community support, as indicated by a resolution of the govern-  
25 ing body of the local government within whose land use jurisdiction the in-  
26 dustrial development project would occur.

27 “(f) Do not require:

28 “(A) An exception taken under ORS 197.732 to a statewide land use  
29 planning goal;

30 “(B) A change to the acknowledged comprehensive plan or land use reg-

1 ulations of the local government within whose land use jurisdiction the in-  
2 dustrial development project would occur; or

3 “(C) A federal environmental impact statement under the National Envi-  
4 ronmental Policy Act.

5 “(3) In lieu of filing an application for a discretionary local permit under  
6 ORS 215.402 to 215.438 or 227.160 to 227.186, and in lieu of filing an appli-  
7 cation otherwise required by law for a discretionary state permit from a state  
8 permitting agency, a person may file an application with the Economic Re-  
9 covery Review Council for expedited project review of an industrial devel-  
10 opment project after first filing with the council a notice of intent to seek  
11 expedited project review that includes evidence that the proposed project  
12 meets the criteria for state significance set forth in subsection (2) of this  
13 section.

14 “(4) The Economic Recovery Review Council, established under section 3  
15 of this 2011 Act, may expedite the permitting of up to 10 industrial develop-  
16 ment projects of state significance per biennium through an expedited project  
17 review process in which the council reviews the proposed project to deter-  
18 mine whether the project complies with the standards and criteria for ap-  
19 plicable discretionary local permits and discretionary state permits. The  
20 expedited project review by the council must include:

21 “(a) Review of the notice of intent filed under subsection (3) of this sec-  
22 tion and a preliminary determination of whether the proposed project quali-  
23 fies as an industrial development project of state significance.

24 “(b) Preparation and issuance of a project order, if on review of the notice  
25 of intent the proposed project appears to qualify as an industrial develop-  
26 ment project of state significance, that sets forth:

27 “(A) The applicable standards and criteria for approval of each discre-  
28 tionary local permit or discretionary state permit that will be addressed in  
29 the expedited project review; and

30 “(B) The deadline for an applicant to file a complete application.



1 “(c) Review of the complete application.

2 “(5) If the applicant files a complete application within the time specified  
3 by the council, the council shall:

4 “(a) Provide notice of the application in the manner required by ORS  
5 197.763 for a land use decision or in the manner required for a conditional  
6 use permit in the applicable acknowledged land use regulations of the local  
7 government within whose land use jurisdiction the proposed project would  
8 occur, whichever results in broader notice;

9 “(b) Provide for a public hearing on the proposed project in the land use  
10 jurisdiction in which the proposed project would occur;

11 “(c) Consider recommendations of the local government and state permit-  
12 ting agencies that would otherwise have jurisdiction to review the discre-  
13 tionary local permits and discretionary state permits for the proposed project  
14 in determining whether the project complies with applicable standards and  
15 criteria and in determining whether to impose conditions of approval for the  
16 project; and

17 “(d) Apply the standards and criteria for each discretionary local permit  
18 and discretionary state permit required for the construction and operation  
19 of the proposed project and determine, within 120 days after the date a  
20 complete application is filed and based on the record and the applicable law,  
21 whether the project complies with the applicable standards and criteria.

22 “(6) The council has jurisdiction to approve discretionary local permits  
23 and discretionary state permits. The council may not waive standards and  
24 criteria that apply to issuance of a discretionary local permit or a discre-  
25 tionary state permit. If the council determines that the proposed project  
26 complies with the applicable standards and criteria, the council shall issue  
27 a project certificate approving the development project. In addition to other  
28 conditions reasonably necessary to ensure that the proposed project complies  
29 with applicable standards and criteria, the council may impose a condition  
30 requiring commencement of construction by a date calculated to ensure that

1 a particular site is developed for the project within a specific time period.  
2 If the council determines that the project does not, or can not, comply with  
3 applicable standards and criteria, the council shall issue a final order deny-  
4 ing the application and explaining why the application was not approved.

5 “(7) A state permitting agency or a local government may recommend  
6 conditions of approval reasonably necessary to ensure that the development  
7 project complies with applicable standards and criteria.

8 “(8) Expedited project review of an industrial development project is not  
9 subject to ORS 183.413 to 183.470.

10 “(9) Issuance of a project certificate:

11 “(a) Binds public bodies, as defined in ORS 174.109, in regard to approval  
12 of construction and operation of the development project.

13 “(b) Satisfies requirements imposed on a state permitting agency by ORS  
14 197.180 and administrative rules implementing ORS 197.180.

15 “(10) After the council issues a project certificate, state permitting agen-  
16 cies and local governments shall:

17 “(a) Issue discretionary local permits and discretionary state permits as  
18 required in the certificate; and

19 “(b) Exercise enforcement authority over the permits, including conditions  
20 imposed in the certificate.

21 “(11) The council shall charge the applicant a fee calculated to recover  
22 the costs reasonably incurred to conduct expedited project review, including  
23 the costs incurred by state permitting agencies and local governments that  
24 make recommendations to the council concerning whether the proposed  
25 project complies with applicable standards and criteria. If the fee charged  
26 by the council includes costs incurred by a state permitting agency or a local  
27 government, the council shall pay or reimburse the state permitting agency  
28 or the local government in the manner provided by ORS 469.360. The council  
29 may require the applicant to pay all or a portion of the fee before initiation  
30 of the expedited project review and may require progress payments as the

1 review proceeds. The fee required by this section is in lieu of any fee or fees  
2 otherwise required for review of a discretionary local permit or a discre-  
3 tionary state permit addressed in the project certificate. The council shall  
4 deposit moneys received under this section in the Economic Recovery Review  
5 Council Fund established under section 5 of this 2011 Act.

6 “(12) The Land Use Board of Appeals does not have jurisdiction to con-  
7 sider decisions, aspects of decisions or actions taken under sections 1 to 5  
8 of this 2011 Act.

9 “(13) A person who participated in the proceedings before the council may  
10 appeal a final order of the council to the Court of Appeals. The appeal shall  
11 proceed in the manner provided by ORS 197.850, 197.855 and 197.860. How-  
12 ever, notwithstanding ORS 197.850 (9) or any other provision of law, the  
13 court shall reverse or remand the decision only if the court finds that:

14 “(a) The council’s determination that the proposed project qualifies as an  
15 industrial development project of state significance under subsection (2) of  
16 this section was clearly in error;

17 “(b) There is a basis to vacate the decision as described in ORS 36.705  
18 (1)(a) to (d) or a basis for modification or correction of an award as described  
19 in ORS 36.710; or

20 “(c) The decision was unconstitutional.

21 **“SECTION 21.** ORS 258.200 is amended to read:

22 “258.200. (1) After receiving notice from the Secretary of State that a re-  
23 count is to be made, the official directed to conduct the recount shall appoint  
24 counting boards from the list of electors qualified to vote in the county in  
25 which the recount is demanded. The official shall appoint as many counting  
26 boards as may be necessary to complete the recount within the shortest  
27 practicable time after the demand is filed. No member of the counting boards  
28 shall have been a candidate for any office voted upon at the election. The  
29 members of a counting board shall not all be members of the same political  
30 party.

1 “(2) Each member of the counting board shall be compensated at a rate  
2 not less than the federal **minimum wage** or state **mandated** minimum  
3 wage, whichever is higher.

4 **“SECTION 22.** ORS 315.262 is amended to read:

5 “315.262. (1) As used in this section:

6 “(a) ‘Child care’ means care provided to a qualifying child of the taxpayer  
7 for the purpose of allowing the taxpayer to be gainfully employed, to seek  
8 employment or to attend school on a full-time or part-time basis, except that  
9 the term does not include care provided by:

10 “(A) The child’s parent or guardian, unless the care is provided in a cer-  
11 tified or registered child care facility; or

12 “(B) A person who has a relationship to the taxpayer that is described in  
13 section 152(a) of the Internal Revenue Code who has not yet attained 19  
14 years of age at the close of the tax year.

15 “(b) ‘Child care expenses’ means the costs associated with providing child  
16 care to a qualifying child of a qualified taxpayer.

17 “(c) ‘Disability’ means a physical or cognitive condition that results in a  
18 person requiring assistance with activities of daily living.

19 “(d) ‘Earned income’ has the meaning given that term in section 32 of the  
20 Internal Revenue Code.

21 “(e) ‘Qualified taxpayer’ means a taxpayer:

22 “(A) Who is an Oregon resident with at least \$6,000 of earned income for  
23 the tax year or who is a nonresident of Oregon with at least \$6,000 of earned  
24 income from Oregon sources for the tax year;

25 “(B) With federal adjusted gross income for the tax year that does not  
26 exceed 250 percent of the federal poverty level;

27 “(C) With Oregon adjusted gross income for the tax year that does not  
28 exceed 250 percent of the federal poverty level; and

29 “(D) Who does not have more than the maximum amount of disqualified  
30 income under section 32(i) of the Internal Revenue Code that is allowed to

1 a taxpayer entitled to the earned income tax credit for federal tax purposes.

2 “(f) ‘Qualifying child’ has the meaning given that term in section 152(c)  
3 of the Internal Revenue Code, determined without regard to section  
4 152(c)(1)(D) of the Internal Revenue Code or section 152(e) of the Internal  
5 Revenue Code, except that it is limited to an individual who is under 13  
6 years of age, or who is a child with a disability, as that term is defined in  
7 ORS 316.099.

8 “(2) A taxpayer is not disqualified from claiming the credit under this  
9 section solely because the taxpayer’s spouse has a disability, if the disability  
10 is such that it prevents the taxpayer’s spouse from providing child care, be-  
11 ing gainfully employed, seeking employment and attending school. The De-  
12 partment of Revenue may require that a physician verify the existence of the  
13 disability and its severity.

14 “(3) A qualified taxpayer shall be allowed a credit against the taxes oth-  
15 erwise due under ORS chapter 316 equal to the applicable percentage of the  
16 qualified taxpayer’s child care expenses (rounded to the nearest \$50).

17 “(4) The applicable percentage to be used in calculating the amount of the  
18 credit provided in this section shall be determined in accordance with the  
19 following table:

20 “

---

21	Applicable	Greater of Oregon
22	Percentage	Adjusted Gross Income or
23		Federal Adjusted
24		Gross Income, as Percent
25		of Federal Poverty Level
26		
27	40	200 or less
28	36	Greater than 200 and less than
29		or equal to 210
30	32	Greater than 210 and less than

1 or equal to 220  
2 24 Greater than 220 and less than  
3 or equal to 230  
4 16 Greater than 230 and less than  
5 or equal to 240  
6 8 Greater than 240 and less than  
7 or equal to 250  
8 0 Greater than 250 percent  
9 of federal poverty level

10 “  
11 (5) The department may:  
12 (a) Adopt rules for carrying out the provisions of this section; and  
13 (b) Prescribe the form used to claim a credit and the information re-  
14 quired on the form. The form may provide for verification of an individual’s  
15 disability by a physician, if applicable, as described in subsection (2) of this  
16 section.  
17 (6) In the case of a credit allowed under this section:  
18 (a) A nonresident shall be allowed the credit under this section in the  
19 proportion provided in ORS 316.117.  
20 (b) If a change in the status of a taxpayer from resident to nonresident  
21 or from nonresident to resident occurs, the credit allowed by this section  
22 shall be determined in a manner consistent with ORS 316.117.  
23 (c) If a change in the taxable year of a taxpayer occurs as described in  
24 ORS 314.085, or if the Department of Revenue terminates the taxpayer’s  
25 taxable year under ORS 314.440, the credit allowed under this section shall  
26 be prorated or computed in a manner consistent with ORS 314.085.  
27 (d) In the case of a qualified taxpayer who is married, a credit shall be  
28 allowed under this section only if:  
29 (A) The taxpayer files a joint return;  
30 (B) The taxpayer files a separate return and is legally separated or sub-

1 ject to a separate maintenance agreement; or

2 “(C) The taxpayer files a separate return and the taxpayer and the  
3 taxpayer’s spouse reside in separate households on the last day of the tax  
4 year with the intent of remaining in separate households in the future.

5 “(7) If the amount allowable as a credit under this section, when added  
6 to the sum of the amounts allowable as payment of tax under ORS 316.187  
7 (withholding), ORS 316.583 (estimated tax), other tax prepayment amounts  
8 and other refundable credit amounts, exceeds the taxes imposed by ORS  
9 chapters 314 and 316 for the tax year (reduced by any nonrefundable credits  
10 allowable for purposes of ORS chapter 316 for the tax year), the amount of  
11 the excess shall be refunded to the taxpayer as provided in ORS 316.502.

12 “(8)(a) The minimum amount of earned income a taxpayer must earn in  
13 order to be a qualified taxpayer shall be adjusted for tax years beginning in  
14 each calendar year by multiplying \$6,000 by the ratio of the monthly aver-  
15 aged U.S. City Average Consumer Price Index for the 12 consecutive months  
16 ending August 31 of the prior calendar year over the monthly averaged index  
17 for the second quarter of the calendar year 1998.

18 “(b) As used in this subsection, ‘U.S. City Average Consumer Price  
19 Index’ means the U.S. City Average Consumer Price Index for All Urban  
20 Consumers (All Items) as published by the Bureau of Labor Statistics of the  
21 United States Department of Labor.

22 “(c) If any adjustment determined under paragraph (a) of this subsection  
23 is not a multiple of \$50, the adjustment shall be rounded to the nearest  
24 multiple of \$50.

25 “(d) Notwithstanding paragraphs (a) to (c) of this subsection, the adjusted  
26 minimum amount of earned income a taxpayer must earn may not exceed the  
27 amount an individual would earn if the individual worked 1,040 hours at the  
28 **state mandated** minimum wage established under ORS 653.025 and in effect  
29 on January 1 of the calendar year in which begins the tax year of the tax-  
30 payer, rounded to the next lower multiple of \$50.

1        **“SECTION 23.** ORS 344.750 is amended to read:

2        “344.750. In addition to the provisions of ORS 344.745, in each program:

3        “(1) The State Apprenticeship and Training Council shall establish by  
4 rule appropriate youth apprentice or trainee ratios.

5        “(2) The employer shall provide workers’ compensation coverage for the  
6 youth apprentices and trainees as required by ORS 656.033.

7        “(3) The youth apprentice or trainee shall begin at a wage that is not less  
8 than the state **mandated** minimum wage.

9        “(4) Youth apprentices and trainees shall be evaluated for wage increases  
10 consistent with the policies established by the participating local appren-  
11 ticeship or training committee.

12       “(5) Youth apprentices and trainees shall not be employed on projects  
13 subject to the federal Davis-Bacon Act or on projects subject to ORS  
14 279C.800 to 279C.870, except ORS 279C.820, 279C.825, 279C.865 and 279C.870.

15       “(6) The youth apprentice’s or trainee’s combined in-school coursework  
16 and related training, as well as on-the-job training and other training expe-  
17 riences, shall not exceed 44 hours per week.

18       “(7) Employment with the employer shall not exceed 20 hours per week  
19 while the student is enrolled in school classes. All or a portion of the on-  
20 the-job training shall be used to meet graduation requirements.

21       “(8) Participating students who fail to regularly attend and make satis-  
22 factory progress in in-school courses and required related training or who  
23 leave high school prior to graduation or completion of their high school re-  
24 quirements shall automatically be removed from the youth apprenticeship  
25 program.

26        **“SECTION 24.** ORS 411.892 is amended to read:

27        “411.892. (1)(a) All employers, including public and private sector em-  
28 ployers within the State of Oregon, are eligible to participate in the JOBS  
29 Plus Program. The Department of Human Services shall adopt by rule a  
30 method to disqualify employers from participating in the program. No em-



1 ployer is required to participate in the JOBS Plus Program. In the event that  
2 there are unassigned participants whom no employer desires to utilize, the  
3 participants may be assigned to work for a public agency.

4 “(b) The maximum number of program participants that any employer is  
5 authorized to receive at any one time may not exceed 10 percent of the total  
6 number of the employer’s employees. However, each employer may receive  
7 one participant. The Director of Human Services may waive the limit in  
8 special circumstances.

9 “(c) The Department of Human Services by rule shall establish criteria  
10 for excluding employers from participation for failure to abide by program  
11 requirements, showing a pattern of terminating participants prior to the  
12 completion of training or other demonstrated unwillingness to comply with  
13 the stated intent of the program.

14 “(2) The Department of Human Services shall ensure that jobs made  
15 available to program participants:

16 “(a) Do not require work in excess of 40 hours per week;

17 “(b) Are not used to displace regular employees or to fill unfilled posi-  
18 tions previously established; and

19 “(c) Do not pay a wage that is substantially less than the wage paid for  
20 similar jobs in the local economy with appropriate adjustments for experi-  
21 ence and training.

22 “(3)(a) Eligibility for the program shall be limited to residents who are:

23 “(A) Adults and caretaker relatives who are receiving temporary assist-  
24 ance for needy families benefits;

25 “(B) Adult Supplemental Nutrition Assistance Program recipients except  
26 as described in subsection (5)(b) of this section; and

27 “(C) Unemployed noncaretaker parents of children who are receiving  
28 temporary assistance for needy families benefits.

29 “(b) In addition to those residents eligible for the program under para-  
30 graph (a) of this subsection, additional residents who are seeking employ-

1 ment may be eligible for the program if there are legislatively allocated  
2 funds available in the temporary assistance for needy families budget of the  
3 Department of Human Services.

4 “(4)(a) Individuals desiring work through the program shall contact the  
5 nearest Department of Human Services office serving the county in which  
6 they reside if they are temporary assistance for needy families program or  
7 Supplemental Nutrition Assistance Program applicants or recipients or non-  
8 custodial parents of individuals receiving temporary assistance for needy  
9 families.

10 “(b) With the assistance of the local JOBS Plus Implementation Councils  
11 and the JOBS Plus Advisory Board, the Department of Human Services shall  
12 develop a job inventory of sufficient size to accommodate all of the partic-  
13 ipants who desire to work in the program. In consultation with the partic-  
14 ipant, the department shall try to match the profile of each participant with  
15 the needs of an employer when assigning a participant to work with the  
16 employer.

17 “(c) Either the employer or the participant may terminate the assignment  
18 by contacting the appropriate Department of Human Services office. In such  
19 event, the Department of Human Services shall reassess the needs of the  
20 participant and assign the participant to another JOBS Plus Program place-  
21 ment or another job opportunity and basic skills program component and,  
22 at the employer’s request, provide the employer with another participant.

23 “(d)(A) If after four months in a placement, a participant has not been  
24 hired for an unsubsidized position, the employer shall allow the worker to  
25 undertake eight hours of job search per week. Participating employers shall  
26 consider such time as hours worked for the purposes of paying wages.

27 “(B) If after six months in a placement, a participant has not been hired  
28 for an unsubsidized position, the placement shall be terminated, and the  
29 caseworker shall reassess the participant’s employment development plan.

30 “(e) The Department of Human Services may pay placement and barrier

1 removal payments to temporary assistance for needy families program and  
2 Supplemental Nutrition Assistance Program participants as necessary to en-  
3 able participation in the JOBS Plus Program.

4 “(f) The Department of Human Services shall accept eligible volunteers  
5 into the program prior to mandating program participation by eligible per-  
6 sons.

7 “(5)(a) Assignment of participants to available jobs shall be based on a  
8 preference schedule developed by the Department of Human Services. Any  
9 temporary assistance for needy families recipient or supplemental nutrition  
10 assistance recipient may volunteer for the program.

11 “(b) The following individuals may not be required to participate in the  
12 program:

13 “(A) Recipients under the temporary assistance for needy families pro-  
14 gram and the Supplemental Nutrition Assistance Program who are eligible  
15 for Supplemental Security Income benefits or other ongoing state or federal  
16 maintenance benefits based on age or disability.

17 “(B) Supplemental nutrition assistance applicants or recipients who are  
18 employed full-time or are college students eligible for supplemental nutrition  
19 assistance and enrolled full-time in a community college or an institution  
20 of higher education, or enrolled half-time in a community college or an in-  
21 stitution of higher education and working at least 20 hours per week.

22 “(C) Teenage parents who remain in high school if progressing toward a  
23 diploma. Teenage parents not in school are eligible for the JOBS Plus Pro-  
24 gram.

25 “(c) The Department of Human Services shall provide life skills classes  
26 and opportunities to achieve General Educational Development (GED) cer-  
27 tificates to appropriate participants in conjunction with working in the  
28 JOBS Plus Program.

29 “(d) Subject to subsection (7) of this section, temporary assistance for  
30 needy families and supplemental nutrition assistance shall be suspended at

1 the end of the calendar month in which an employer makes the first wage  
2 payment to a participant who is a custodial parent in a family that receives  
3 temporary assistance for needy families or to any adult member of a house-  
4 hold receiving supplemental nutrition assistance. Failure of the participant  
5 to cooperate with the requirements of the JOBS Plus Program may result in  
6 the participant's removal, in accordance with rules adopted by the Depart-  
7 ment of Human Services, from the JOBS Plus Program and suspension of the  
8 participant's temporary assistance for needy families grant and supplemental  
9 nutrition assistance. A temporary assistance for needy families and supple-  
10 mental nutrition assistance recipient who has been removed from the pro-  
11 gram for failing to cooperate shall be eligible to reapply to participate in the  
12 program and shall have eligibility for program services determined without  
13 regard to the length of time the person was not participating following re-  
14 moval.

15 “(6)(a) Employers shall pay all participating individuals at least the  
16 hourly rate of the [*Oregon*] **state mandated** minimum wage.

17 “(b) Sick leave, holiday and vacation absences shall conform to the indi-  
18 vidual employer's rules for temporary employees.

19 “(c) Group health insurance benefits shall be provided by the employer  
20 to program participants if, and to the extent that, state or federal law re-  
21 quires the employer to provide such benefits.

22 “(d) All persons participating in the JOBS Plus Program shall be consid-  
23 ered to be temporary employees of the individual employer providing the  
24 work and shall be entitled only to benefits required by state or federal law.

25 “(e) Employers shall provide workers' compensation coverage for each  
26 JOBS Plus Program participant.

27 “(7) In the event that the net monthly full-time wage paid to a participant  
28 would be less than the level of income from the temporary assistance for  
29 needy families program and the supplemental nutrition assistance amount  
30 equivalent that the participant would otherwise receive, the Department of

1 Human Services shall determine and pay a supplemental payment as neces-  
2 sary to provide the participant with that level of net income. The department  
3 shall determine and pay in advance supplemental payments to participants  
4 on a monthly basis as necessary to ensure equivalent net program wages.  
5 Participants shall be compensated only for time worked.

6 “(8) In addition to and not in lieu of the payments provided for under  
7 subsections (6) and (7) of this section, participants shall be entitled to retain  
8 the full child support payments collected by the Department of Justice.

9 “(9) In conformity with existing state day care program regulations, child  
10 day care shall be provided for all program participants who require it.

11 “(10) JOBS Plus Program employers shall:

12 “(a) Endeavor to make JOBS Plus Program placements positive learning  
13 and training experiences;

14 “(b) Maintain health, safety and working conditions at or above levels  
15 generally acceptable in the industry and no less than that of comparable jobs  
16 of the employer;

17 “(c) Provide on-the-job training to the degree necessary for the partic-  
18 ipants to perform their duties;

19 “(d) Recruit volunteer mentors from among their regular employees to  
20 assist the participants in becoming oriented to work and the workplace; and

21 “(e) Sign an agreement to abide by all requirements of the program, in-  
22 cluding the requirement that the program not supplant existing jobs. All  
23 agreements shall include provisions noting the employer’s responsibility to  
24 repay reimbursements in the event the employer violates program rules.  
25 When a professional placement service, professional employment organiza-  
26 tion or temporary employment agency is acting as an employer pursuant to  
27 subsection (13) of this section, agreements under this paragraph shall require  
28 a three-party agreement between the professional placement service, profes-  
29 sional employment organization or temporary employment agency, the or-  
30 ganization where the participant has been placed to perform services and the

1 State of Oregon. The three-party agreement shall include provisions requir-  
2 ing that all JOBS Plus reimbursements received by the professional place-  
3 ment service, professional employment organization or temporary  
4 employment agency be credited to the organization where the participant has  
5 been placed to perform services.

6 “(11) Program participant wages shall be subject to federal and state in-  
7 come taxes, Social Security taxes and unemployment insurance tax or re-  
8 imbursement as applicable under ORS chapter 657, which shall be withheld  
9 and paid in accordance with state and federal law. Supplemental payments  
10 made pursuant to subsection (7) of this section shall not be subject to state  
11 income taxes under ORS chapter 316 and, to the extent allowed by federal  
12 law, shall not be subject to federal income taxes and Social Security taxes.

13 “(12)(a) The Department of Human Services shall reimburse employers for  
14 the employers’ share of Social Security, unemployment insurance and  
15 workers’ compensation premiums paid on behalf of program participants re-  
16 ferred to the employer by the Department of Human Services, as well as the  
17 **state mandated** minimum wage earnings paid by the employer to program  
18 participants referred to the employer by the Department of Human Services.

19 “(b) If the Department of Human Services finds that an employer has vi-  
20 olated any of the rules of the JOBS Plus Program, the department:

21 “(A) Shall withhold any amounts due to employers under paragraph (a)  
22 of this subsection.

23 “(B) May seek repayment of any amounts paid to employers under para-  
24 graph (a) of this subsection.

25 “(13) For purposes of this section, ‘employer’ shall include professional  
26 placement services, professional employment organizations and temporary  
27 employment agencies.

28 “**SECTION 25.** ORS 419C.461 is amended to read:

29 “419C.461. (1) When a youth offender has been found to be within the ju-  
30 risdiction of the juvenile court for having committed an act that if commit-

1 ted by an adult would constitute a violation of ORS 164.383 or 164.386 or  
2 criminal mischief and the act consisted of defacing property by creating  
3 graffiti, the court, in addition to any other disposition, may order the youth  
4 offender to perform:

5 “(a) Personal service, as provided in ORS 419C.465, consisting of removing  
6 graffiti; or

7 “(b) If the victim does not agree to the personal service, community ser-  
8 vice consisting of removing graffiti at some location other than that defaced  
9 by the youth offender.

10 “(2) In no case shall the youth offender, pursuant to this section, perform  
11 more hours of personal or community service than would be indicated by  
12 dividing the monetary damage caused by the youth offender by the [legal]  
13 **state mandated** minimum wage.

14 “(3)(a) When a youth offender has been found to be within the jurisdiction  
15 of the juvenile court for having committed an act that if committed by an  
16 adult would constitute a violation of ORS 164.383, the court may find the  
17 parent, legal guardian or other person lawfully charged with the care or  
18 custody of the youth offender liable for actual damages to person or property  
19 caused by the youth offender. However, a parent who is not entitled to legal  
20 custody of the youth offender at the time of the act is not liable for the  
21 damages.

22 “(b) The legal obligation of the parent, legal guardian or other person  
23 under this subsection may not exceed the liability provided in ORS 30.765.

24 “(c) The court may, with the consent of the parent, legal guardian or  
25 other person, order the parent, legal guardian or other person to complete  
26 a parent effectiveness program approved by the court. Upon the parent’s,  
27 legal guardian’s or other person’s completion of the program to the satis-  
28 faction of the court, the court may dismiss any other penalties imposed upon  
29 the parent, legal guardian or other person.

30 **SECTION 26.** ORS 419C.465 is amended to read:

1       “419C.465. Upon agreement of the youth offender, the youth offender’s  
2 parent or guardian and the victim of the youth offender’s conduct, the court  
3 may order a youth offender to perform personal service for the victim as a  
4 condition of probation. Contact with a victim to determine whether the vic-  
5 tim is willing to agree to such personal service shall be by a person to be  
6 designated by the court and may not be by the youth offender. The victim  
7 shall be advised by such person of any prior findings of juvenile court ju-  
8 risdiction of the youth offender under ORS 419C.005. The court shall specify  
9 the nature and length of the service as the court finds appropriate. Personal  
10 service performed pursuant to the order shall constitute full or partial sat-  
11 isfaction of any restitution ordered by the court, as provided by agreement  
12 prior to the making of the order. However, in no case shall the youth  
13 offender, pursuant to this section, perform more hours of personal service  
14 than would be indicated by dividing the victim’s monetary loss by the  
15 [legal] **state mandated** minimum wage.

16       “**SECTION 27.** ORS 470.560 is amended to read:

17       “470.560. (1) The State Department of Energy shall adopt rules establish-  
18 ing certification standards for primary contractors participating in the con-  
19 struction of small scale local energy projects financed through the energy  
20 efficiency and sustainable technology loan program. The department shall  
21 design the standards to ensure that the project work performed by a primary  
22 contractor holding the certification and all the primary contractor’s sub-  
23 contractors is of high quality and will result in a high degree of customer  
24 satisfaction.

25       “(2) The certification standards established by the department must, at a  
26 minimum, require that the primary contractor:

27       “(a) Prove that the primary contractor and the primary contractor’s sub-  
28 contractors have sufficient skill to successfully install energy efficiency,  
29 renewable energy or weatherization projects.

30       “(b) Not be a contractor listed by the Commissioner of the Bureau of



1 Labor and Industries under ORS 279C.860 as ineligible to receive a contract  
2 or subcontract for public works.

3 “(c) Be an equal opportunity employer or small business or be a disad-  
4 vantaged business enterprise, a minority-owned business, a woman-owned  
5 business, a business that a service-disabled veteran owns or an emerging  
6 small business, as those terms are defined in ORS 200.005.

7 “(d) Demonstrate a history of compliance with the rules and other re-  
8 quirements of the Construction Contractors Board and of the Workers’  
9 Compensation Division and the Occupational Safety and Health Division of  
10 the Department of Consumer and Business Services.

11 “(e) Employ at least 80 percent of employees used for energy efficiency  
12 and sustainable technology loan program projects from the local work force,  
13 if a sufficient supply of skilled workers is available locally.

14 “(f) Demonstrate a history of compliance with federal and state wage and  
15 hour laws.

16 “(g) Pay wages to employees used for energy efficiency and sustainable  
17 technology loan program projects at a rate equal to at least 180 percent of  
18 the state **mandated** minimum wage.

19 “(3) The State Department of Energy shall consult with the Public Pur-  
20 pose Fund Administrator and utilities when developing certification stan-  
21 dards for primary contractors.

22 “(4) The Construction Contractors Board may issue a qualifying primary  
23 contractor a certification authorizing the primary contractor to participate  
24 in the construction of small scale local energy projects financed through the  
25 energy efficiency and sustainable technology loan program. A primary con-  
26 tractor seeking certification shall apply to the board as provided under ORS  
27 701.119.

28 “(5) The State Department of Energy shall identify certified primary  
29 contractors that provide employees with health insurance benefits as pre-  
30 ferred service providers and may take other actions as practicable to en-

1 courage certified primary contractors to provide employees with health  
2 insurance benefits.

3 **“SECTION 28.** ORS 653.030 is amended to read:

4 “653.030. The Commissioner of the Bureau of Labor and Industries shall  
5 issue rules prescribing the employment of other types of persons at fixed  
6 minimum hourly wage rates lower than the **state mandated** minimum wage  
7 rate required by ORS 653.025, when the commissioner has determined that  
8 the application of ORS 653.025 would substantially curtail opportunities for  
9 employment for specific types of persons. The types of persons for whom a  
10 minimum hourly wage rate may be set are limited to persons with mental  
11 or physical disabilities or who are student-learners, as defined in ORS  
12 653.070.

13 **“SECTION 29.** ORS 653.070 is amended to read:

14 “653.070. (1) As used in this section:

15 “(a) ‘Bona fide professional training program’ includes any professional  
16 training program approved by the Superintendent of Public Instruction pur-  
17 suant to rules of the State Board of Education which provides for part-time  
18 employment training which may be scheduled for a part of the workday or  
19 workweek, for alternating weeks or for other limited periods during the year,  
20 supplemented by and integrated with a definitely organized plan of instruc-  
21 tion designed to teach technical knowledge and related information given as  
22 a regular part of the student-learner’s course by an accredited school, college  
23 or university.

24 “(b) ‘Student-learner’ means a student who is receiving instruction in an  
25 accredited school, college or university and who is employed on a part-time  
26 basis, pursuant to a bona fide professional training program.

27 “(2) Notwithstanding ORS 653.025, employers shall pay student-learners  
28 at least 75 percent of the **state mandated** minimum wage prescribed by ORS  
29 653.025.

30 “(3) The number of hours of employment training for a student-learner

1 at subminimum wages, when added to the hours of school instruction, shall  
2 not exceed eight hours on any day or 40 hours in any week.

3 “(4) The Commissioner of the Bureau of Labor and Industries may adopt  
4 rules prescribing the procedures and requirements for application and issu-  
5 ance of special certificates authorizing the employment of student-learners  
6 at subminimum wages. The rules shall require that the following conditions  
7 be satisfied before the issuance of such special certificates:

8 “(a) The employment of the student-learner at subminimum wages au-  
9 thorized by the special certificate must be necessary to prevent curtailment  
10 of opportunities for employment.

11 “(b) The occupation for which the student-learner is receiving preparatory  
12 training must require a sufficient degree of skill to necessitate a substantial  
13 learning period.

14 “(c) The training must not be for the purpose of acquiring manual  
15 dexterity and high production speed in repetitive operations.

16 “(d) The employment of a student-learner must not have the effect of  
17 displacing a worker employed in the establishment.

18 “(e) The employment of the student-learners at subminimum wages must  
19 not tend to impair or depress the wage rates or working standards estab-  
20 lished for experienced workers for work of a like or comparable character.

21 “(f) The occupational needs of the community or industry warrant the  
22 training of student-learners.

23 “(g) There are no serious outstanding violations of the provisions of a  
24 student-learner certificate previously issued to the employer, or serious vio-  
25 lations of any other provisions of law by the employer which provide rea-  
26 sonable grounds to conclude that the terms of the certificate would not be  
27 complied with, if issued.

28 “(h) The issuance of such a certificate would not tend to prevent the de-  
29 velopment of apprenticeship under ORS 660.002 to 660.210 or would not im-  
30 pair established apprenticeship standards in the occupation or industry

1 involved.

2 “(i) The number of student-learners to be employed in one establishment  
3 must not be more than a small proportion of its working force.

4 “(5) Failure to comply with subsection (2) or (3) of this section shall  
5 subject the employer to a penalty of 75 percent of the **state mandated**  
6 minimum wage prescribed by ORS 653.025 for each hour of work time that  
7 the student-learner is gainfully employed. The Commissioner of the Bureau  
8 of Labor and Industries shall have a cause of action against the employer for  
9 the recovery of the penalty.

10 **“SECTION 30.** ORS 653.606 is amended to read:

11 “653.606. (1)(a) Employers that employ at least 10 employees working  
12 anywhere in this state shall implement a sick time policy that allows an  
13 employee to earn and use up to 40 hours of paid sick time per year. Paid sick  
14 time shall accrue at the rate of at least one hour of paid sick time for every  
15 30 hours the employee works or 1-1/3 hours for every 40 hours the employee  
16 works.

17 “(b) Employers that employ fewer than 10 employees working anywhere  
18 in this state shall implement a sick time policy that allows an employee to  
19 earn and use up to 40 hours of unpaid sick time per year. Unpaid sick time  
20 shall accrue at the rate of at least one hour of unpaid sick time for every  
21 30 hours the employee works or 1-1/3 hours for every 40 hours the employee  
22 works.

23 “(c) Employers that employ at least 10 employees working anywhere in  
24 this state and front-load for employees at least 40 hours of paid sick time  
25 or paid time off at the beginning of each year used to calculate the accrual  
26 and usage of sick time or time off need not comply with subsections (1)(a)  
27 and (3) of this section.

28 “(d) Employers that employ fewer than 10 employees working anywhere  
29 in this state and front-load for employees at least 40 hours of unpaid sick  
30 time or unpaid time off at the beginning of each year used to calculate the

1 accrual and usage of sick time or time off need not comply with subsections  
2 (1)(b) and (3) of this section.

3 “(2)(a) The number of employees employed by an employer shall be as-  
4 certained by determining that the per-day average number of employees is  
5 10 or greater for each of 20 workweeks in the calendar year or the fiscal year  
6 of the employer immediately preceding the year in which the leave is to be  
7 taken.

8 “(b) If the business of the employer was not in existence for the entire  
9 year preceding the determination made under paragraph (a) of this sub-  
10 section, the number of employees shall be based on any 20 workweeks pre-  
11 ceding the request for sick time, which may include workweeks in the  
12 current year, the preceding year or a combination of workweeks in the cur-  
13 rent year and the preceding year.

14 “(3) An employee shall begin to earn and accrue sick time on the first day  
15 of employment with an employer. The employee may carry over up to 40  
16 hours of unused sick time from one year to a subsequent year. However, an  
17 employer may adopt a policy that limits:

18 “(a) An employee to accruing no more than 80 hours of sick time; or

19 “(b) An employee to using no more than 40 hours of sick time in a year.

20 “(4)(a) An employer is not required to carry over unused sick time if, by  
21 mutual consent, the employer and an employee agree that:

22 “(A) If the employer has 10 or more employees working anywhere in this  
23 state, the employee will be paid for all unused paid sick time at the end of  
24 the year in which the sick time is accrued and the employer will credit the  
25 employee with an amount of paid sick time that meets the requirements of  
26 this section on the first day of the immediately subsequent year; or

27 “(B) If the employer has fewer than 10 employees working anywhere in  
28 this state, the employer will credit the employee with an amount of sick time  
29 that meets the requirements of this section on the first day of the imme-  
30 diately subsequent year.

1 “(b) The Commissioner of the Bureau of Labor and Industries shall adopt  
2 rules for the determination of the number of employees employed by an em-  
3 ployer.

4 “(5)(a) An employee is eligible to use sick time beginning on the 91st  
5 calendar day of employment with the employer and may use sick time as it  
6 is accrued.

7 “(b) An employer may authorize an employee to use accrued sick time  
8 prior to the 91st calendar day of employment.

9 “(c)(A) An employer that employs 10 or more employees working any-  
10 where in this state shall pay an employee for accrued sick time used at the  
11 regular rate of pay of the employee.

12 “(B) For an employee employed on a commission or piece-rate basis by  
13 an employer that employs 10 or more employees working anywhere in this  
14 state, the employer shall pay the employee for accrued sick time used at the  
15 employee’s regular rate of pay. If the employee is paid on a commission or  
16 piece-rate basis and does not have a previously established regular rate of  
17 pay, the employer shall pay the employee at a rate equal to at least the **state**  
18 **mandated** minimum wage specified in ORS 653.025.

19 “(6) An employee who is exempt from overtime requirements under 29  
20 U.S.C. 213(a)(1) of the federal Fair Labor Standards Act of 1938 is presumed  
21 to work 40 hours in each workweek for the purpose of accrual of sick time  
22 unless the actual workweek of the employee is less than 40 hours, in which  
23 case sick time accrues based on the actual workweek of the employee.

24 “(7) Nothing in ORS 653.601 to 653.661 requires an employer to compen-  
25 sate an employee for accrued unused sick time upon the employee’s termi-  
26 nation, resignation, retirement or other separation from employment.

27 “(8) An employer may not require an employee to:

28 “(a) Search for or find a replacement worker as a condition of the  
29 employee’s use of accrued sick time; or

30 “(b) Work an alternate shift to make up for the use of sick time.

1 “(9) Upon mutual consent by the employee and the employer, an employee  
2 may work additional hours or shifts to compensate for hours or shifts during  
3 which the employee was absent from work without using accrued sick time  
4 for the hours or shifts missed. However, the employer may not require the  
5 employee to work additional hours or shifts authorized by this subsection.  
6 If the employee works additional hours or shifts, the employer must comply  
7 with any applicable federal, state or local laws regarding overtime pay.

8 “(10) An employee retains accrued sick time if the employer sells, trans-  
9 fers or otherwise assigns the business or an interest in the business to an-  
10 other employer.

11 “(11)(a) An employer shall restore previously accrued unused sick time to  
12 an employee who is reemployed by that employer within 180 days of sepa-  
13 ration from employment with the employer.

14 “(b) If an employee leaves employment with an employer before the 91st  
15 day of employment and subsequently is reemployed by that employer within  
16 180 days of separation from employment, the employer shall restore the ac-  
17 crued sick time balance the employee had when the employee left the em-  
18 ployment of the employer and the employee may use accrued sick time after  
19 the combined total of days of employment with the employer exceeds 90 cal-  
20 endar days.

21 “(12) If an employee is transferred to a separate division, entity or lo-  
22 cation of the employer but remains employed by that same employer, the  
23 employee is entitled to use all sick time accrued while working at the former  
24 division, entity or location of the employer and is entitled to retain or use  
25 all sick time as provided by ORS 653.601 to 653.661.

26 “(13) Employers located in a city with a population exceeding 500,000  
27 shall comply with ORS 653.601 to 653.661, except that:

28 “(a) If an employer located in a city with a population exceeding 500,000  
29 employs at least six employees working anywhere in this state, the employer  
30 shall implement a policy consistent with this section as it applies to em-

1 employers with at least 10 employees working anywhere in this state.

2 “(b) If an employer located in a city with a population exceeding 500,000  
3 employs fewer than six employees working anywhere in this state, the em-  
4 ployer shall implement a policy consistent with this section as it applies to  
5 employers with fewer than 10 employees working anywhere in this state.

6 **“SECTION 31.** ORS 656.802 is amended to read:

7 “656.802. (1)(a) As used in this chapter, ‘occupational disease’ means any  
8 disease or infection arising out of and in the course of employment caused  
9 by substances or activities to which an employee is not ordinarily subjected  
10 or exposed other than during a period of regular actual employment therein,  
11 and which requires medical services or results in disability or death, in-  
12 cluding:

13 “(A) Any disease or infection caused by ingestion of, absorption of,  
14 inhalation of or contact with dust, fumes, vapors, gases, radiation or other  
15 substances.

16 “(B) Any mental disorder, whether sudden or gradual in onset, which re-  
17 quires medical services or results in physical or mental disability or death.

18 “(C) Any series of traumatic events or occurrences which requires medical  
19 services or results in physical disability or death.

20 “(b) As used in this chapter, ‘mental disorder’ includes any physical dis-  
21 order caused or worsened by mental stress.

22 “(2)(a) The worker must prove that employment conditions were the major  
23 contributing cause of the disease.

24 “(b) If the occupational disease claim is based on the worsening of a  
25 preexisting disease or condition pursuant to ORS 656.005 (7), the worker must  
26 prove that employment conditions were the major contributing cause of the  
27 combined condition and pathological worsening of the disease.

28 “(c) Occupational diseases shall be subject to all of the same limitations  
29 and exclusions as accidental injuries under ORS 656.005 (7).

30 “(d) Existence of an occupational disease or worsening of a preexisting



1 disease must be established by medical evidence supported by objective  
2 findings.

3 “(e) Preexisting conditions shall be deemed causes in determining major  
4 contributing cause under this section.

5 “(3) Notwithstanding any other provision of this chapter, a mental disorder  
6 is not compensable under this chapter unless the worker establishes all  
7 of the following:

8 “(a) The employment conditions producing the mental disorder exist in a  
9 real and objective sense.

10 “(b) The employment conditions producing the mental disorder are conditions  
11 other than conditions generally inherent in every working situation or  
12 reasonable disciplinary, corrective or job performance evaluation actions by  
13 the employer, or cessation of employment or employment decisions attendant  
14 upon ordinary business or financial cycles.

15 “(c) There is a diagnosis of a mental or emotional disorder which is generally  
16 recognized in the medical or psychological community.

17 “(d) There is clear and convincing evidence that the mental disorder arose  
18 out of and in the course of employment.

19 “(4) Death, disability or impairment of health of firefighters of any political  
20 division who have completed five or more years of employment as firefighters,  
21 caused by any disease of the lungs or respiratory tract, hypertension or  
22 cardiovascular-renal disease, and resulting from their employment as  
23 firefighters is an ‘occupational disease.’ Any condition or impairment of  
24 health arising under this subsection shall be presumed to result from a  
25 firefighter’s employment. However, any such firefighter must have taken a  
26 physical examination upon becoming a firefighter, or subsequently thereto,  
27 which failed to reveal any evidence of such condition or impairment of  
28 health which preexisted employment. Denial of a claim for any condition or  
29 impairment of health arising under this subsection must be on the basis of  
30 clear and convincing medical evidence that the cause of the condition or

1 impairment is unrelated to the firefighter's employment.

2 “(5)(a) Death, disability or impairment of health of a nonvolunteer fire-  
3 fighter employed by a political division or subdivision who has completed  
4 five or more years of employment as a nonvolunteer firefighter is an occu-  
5 pational disease if the death, disability or impairment of health:

6 “(A) Is caused by brain cancer, colon cancer, stomach cancer, testicular  
7 cancer, prostate cancer, multiple myeloma, non-Hodgkin's lymphoma, cancer  
8 of the throat or mouth, rectal cancer, breast cancer or leukemia;

9 “(B) Results from the firefighter's employment as a nonvolunteer fire-  
10 fighter; and

11 “(C) Is first diagnosed by a physician after July 1, 2009.

12 “(b) Any condition or impairment of health arising under this subsection  
13 is presumed to result from the firefighter's employment. Denial of a claim for  
14 any condition or impairment of health arising under this subsection must be  
15 on the basis of clear and convincing medical evidence that the condition or  
16 impairment was not caused or contributed to in material part by the  
17 firefighter's employment.

18 “(c) Notwithstanding paragraph (b) of this subsection, the presumption  
19 established under paragraph (b) of this subsection may be rebutted by clear  
20 and convincing evidence that the use of tobacco by the nonvolunteer fire-  
21 fighter is the major contributing cause of the cancer.

22 “(d) The presumption established under paragraph (b) of this subsection  
23 does not apply to prostate cancer if the cancer is first diagnosed by a phy-  
24 sician after the firefighter has reached the age of 55. However, nothing in  
25 this paragraph affects the right of a firefighter to establish the  
26 compensability of prostate cancer without benefit of the presumption.

27 “(e) The presumption established under paragraph (b) of this subsection  
28 does not apply to claims filed more than 84 months following the termination  
29 of the nonvolunteer firefighter's employment as a nonvolunteer firefighter.  
30 However, nothing in this paragraph affects the right of a firefighter to es-

1 tablish the compensability of the cancer without benefit of the presumption.

2 “(f) The presumption established under paragraph (b) of this subsection  
3 does not apply to volunteer firefighters.

4 “(g) Nothing in this subsection affects the provisions of subsection (4) of  
5 this section.

6 “(h) For purposes of this subsection, ‘nonvolunteer firefighter’ means a  
7 firefighter who performs firefighting services and receives salary, hourly  
8 wages equal to or greater than the state **mandated** minimum wage, or other  
9 compensation except for room, board, lodging, housing, meals, stipends, re-  
10 imbursement for expenses or nominal payments for time and travel, regard-  
11 less of whether any such compensation is subject to federal, state or local  
12 taxation. ‘Nominal payments for time and travel’ includes, but is not limited  
13 to, payments for on-call time or time spent responding to a call or similar  
14 noncash benefits.

15 “(6) Notwithstanding ORS 656.027 (6), any city providing a disability and  
16 retirement system by ordinance or charter for firefighters and police officers  
17 not subject to this chapter shall apply the presumptions established under  
18 subsection (5) of this section when processing claims for firefighters covered  
19 by the system.

20 **“SECTION 32.** ORS 657.325 is amended to read:

21 “657.325. (1) An individual shall be eligible to receive extended benefits  
22 with respect to any week of unemployment in the individual’s eligibility pe-  
23 riod only if the Director of the Employment Department finds that with re-  
24 spect to such week the individual:

25 “(a) Is an exhaustee;

26 “(b) Has satisfied the requirements of this chapter for the receipt of reg-  
27 ular benefits that are applicable to individuals claiming extended benefits,  
28 including not being subject to a disqualification for the receipt of benefits;  
29 and

30 “(c) Has been paid wages by an employer or employers subject to the

1 provisions of this chapter during the base period of the individual's applica-  
2 ble benefit year in an amount equal to or in excess of 40 times the  
3 individual's applicable weekly benefit amount.

4 “(2) The weekly extended benefit amount payable to an individual for a  
5 week of total unemployment in the individual's eligibility period shall be an  
6 amount equal to the weekly benefit amount payable to the individual during  
7 the applicable benefit year.

8 “(3) The maximum extended benefit amount payable to any eligible indi-  
9 vidual with respect to the applicable benefit year shall be:

10 “(a) 50 percent of the total amount of regular benefits which were payable  
11 to the individual under this chapter in the applicable benefit year; or

12 “(b) With respect to weeks beginning in a high unemployment period, 80  
13 percent of the total amount of regular benefits which were payable to the  
14 individual under this chapter in the applicable benefit year.

15 “(4) Notwithstanding subsection (1) of this section, extended benefits shall  
16 not be payable to any individual for any week pursuant to an interstate  
17 claim filed in any other state under the interstate benefit payment plan if  
18 an extended benefit period is not in effect for such week in such other state.

19 “(5) The provisions of subsection (4) of this section shall not apply with  
20 respect to the first two weeks for which extended benefits would otherwise  
21 be payable to an individual pursuant to an interstate claim filed under the  
22 interstate benefit payment plan.

23 “(6) Notwithstanding the provisions of subsections (1) to (5) and (12) of  
24 this section, an individual shall be ineligible for payment of extended bene-  
25 fits for any week of unemployment in the individual's eligibility period if the  
26 director finds that during such week:

27 “(a) The individual failed to accept any offer of suitable work or failed  
28 to apply for any suitable work, as defined under subsection (8) of this sec-  
29 tion, to which the individual was referred by the director; or

30 “(b) The individual failed to actively engage in seeking work as prescribed

1 under subsection (10) of this section.

2 “(7) Any individual who has been found ineligible for extended benefits  
3 by reason of the provisions in subsection (6) of this section shall also be  
4 denied benefits beginning with the first day of the week following the week  
5 in which such failure occurred and until the individual has been employed  
6 in each of four subsequent weeks, whether or not consecutive, and has  
7 earned remuneration equal to not less than four times the extended weekly  
8 benefit amount.

9 “(8)(a) For purposes of this section, the term ‘suitable work’ means, with  
10 respect to any individual, any work which is within such individual’s capa-  
11 bilities, provided, however:

12 “(A) That the gross average weekly remuneration payable for the work  
13 must exceed the sum of the individual’s weekly benefit amount and the  
14 amount, if any, of supplemental unemployment benefits, as defined in section  
15 501(c)(17)(D) of the Internal Revenue Code, payable to such individual for  
16 such week; and

17 “(B) The work must pay wages which equal or exceed the higher of the  
18 state [*or*] **mandated minimum wage**, the local minimum wage or the min-  
19 imum wage provided by section 6 (a)(1) of the Fair Labor Standards Act of  
20 1938, without regard to any exemption;

21 “(b) No individual shall be denied extended benefits for failure to accept  
22 an offer of or referral to any job which meets the definition of suitability  
23 as described herein if:

24 “(A) The position was not offered to such individual in writing or was  
25 not listed with the Employment Department; or

26 “(B) Such failure could not result in a denial of benefits under the defi-  
27 nition of suitable work for regular benefit claimants pursuant to ORS 657.190  
28 to the extent that the criteria of suitability are not inconsistent with the  
29 provisions of this section; or

30 “(C) The individual furnishes satisfactory evidence to the director that

1 the individual's prospects for obtaining work in the individual's customary  
2 occupation within a reasonably short period are good. If such evidence is  
3 deemed satisfactory for this purpose, the determination of whether any work  
4 is suitable with respect to such individual shall be made in accordance with  
5 the definition of suitable work in ORS 657.190 without regard to the defi-  
6 nition specified in this subsection.

7 “(9) Notwithstanding the provisions of subsection (8) of this section to the  
8 contrary, no work shall be deemed to be suitable work for an individual  
9 which does not accord with the labor standard provisions required by section  
10 3304(a)(5) of the Internal Revenue Code and as set forth in ORS 657.195.

11 “(10) For the purposes of subsection (6)(b) of this section, an individual  
12 shall be treated as actively engaged in seeking work during any week if:

13 “(a) The individual has engaged in a systematic and sustained effort to  
14 obtain work during such week; and

15 “(b) The individual furnishes tangible evidence of engaging in such effort  
16 during such week.

17 “(11) The Employment Department shall refer any claimant entitled to  
18 extended benefits to any suitable work which meets the criteria prescribed  
19 in subsection (8) of this section.

20 “(12) An individual shall not be eligible to receive extended benefits under  
21 this section if the individual has been disqualified for regular or extended  
22 benefits under ORS 657.176 (2) unless the individual has satisfied the dis-  
23 qualification as provided in ORS 657.176 (2).

24 “(13) Subsections (6) to (11) of this section shall not apply to weeks of  
25 unemployment beginning after March 6, 1993, and before January 1, 1995.

26 **“SECTION 33.** ORS 660.142 is amended to read:

27 “660.142. (1) A training agent may not pay an apprentice at a rate less  
28 than that obtained by applying the schedule, set forth in the applicable  
29 standards, at the apprentice's level of apprenticeship, to the journeyworker  
30 hourly rate of wage currently in effect for journeyworkers in the occupation

1 for which the apprentice is being trained, as determined by the appropriate  
2 local joint committee.

3 “(2) The journeyworker hourly wage rate shall be the average hourly  
4 wage currently being paid by the training agents participating in a program  
5 to their skilled workers, that is, to those employees with demonstrated  
6 knowledge, experience and proficiency in that trade or occupation who are  
7 currently performing the type of work for which the apprentice is to be  
8 trained. Upon receipt of a committee’s determination of its current  
9 journeyworker hourly rate of wage, the State Director of Apprenticeship and  
10 Training shall cause notice of the determination to be promptly mailed to  
11 all apprentices and training agents participating in the program. The deter-  
12 mination shall be in effect from the date set forth in the determination or,  
13 lacking such date, from the first of the month following the mailing of the  
14 determination. However, neither the wage determination nor the effective  
15 date alters the terms or effect of an existing collective bargaining agreement.

16 “(3) If a higher journeyworker hourly wage rate is prescribed by federal  
17 or state law for work on a particular project, the higher rate is controlling  
18 for purposes of determining apprentice wages applicable to that particular  
19 project.

20 “(4) Nothing stated in ORS 660.002 to 660.210 shall be construed to su-  
21 perse the minimum wage or overtime provisions of ORS chapters 652 and  
22 653, or the rules adopted under ORS chapter 652 or 653. Anything to the  
23 contrary notwithstanding, the entry wage (that wage derived by applying the  
24 lowest percentage on the schedule to the current journeyworker hourly wage  
25 rate) may not be less than the federal or state **mandated** minimum wage  
26 rate, whichever is higher.

27 “(5) The State Apprenticeship and Training Council may make such ex-  
28 ceptions to the apprentice wage schedule or journeyworker hourly wage rate,  
29 and to the minimum numeric ratio of journeyworkers to apprentices, as it  
30 deems necessary or advisable to further the operation of apprenticeship and

1 training programs in Department of Corrections and Oregon Youth Author-  
2 ity institutions.

3 **“SECTION 34. This 2016 Act shall be submitted to the people for**  
4 **their approval or rejection at the next regular general election held**  
5 **throughout the state.”.**

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