

D R A F T

SUMMARY

Imposes excise tax on coffee beans and ground coffee. Requires Department of Revenue to deposit excise tax amounts in Alternative Education Sustainability Fund. Establishes Alternative Education Sustainability Fund. Directs Oregon Military Department to allocate 50 percent of funds to Oregon National Guard Youth Challenge Program for operations and capital construction. Directs Department of Education to use 50 percent of funds to make grants to alternative high school programs for operations and capital construction and, with approval of Governor, to primary schools for primary reading programs. Establishes Alternative Education Sustainability Board to make recommendations for distributions and grant awards.

Becomes operative July 1, 2018.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to alternative education funding; prescribing an effective date; and
3 providing for revenue raising that requires approval by a three-fifths
4 majority.

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

6 **SECTION 1. (1) As used in this section, “specialty coffee beverage”**
7 **means any beverage made with espresso coffee that is prepared for**
8 **individual consumption. “Specialty coffee beverage” does not mean a**
9 **packaged beverage product that may be consumed without preparation**
10 **other than opening the package or heating the contents.**

11 **(2)(a)(A) An excise tax of five cents per pound is hereby imposed**
12 **on the sale at wholesale in this state of coffee beans and ground coffee.**

13 **(B) The excise tax imposed under this subsection shall be imposed**
14 **on coffee beans and ground coffee used to prepare specialty coffee**

1 beverages for sale at retail if the excise tax imposed under subpara-
2 graph (A) of this paragraph has not been paid on the coffee beans and
3 ground coffee. This subparagraph does not apply to any retail seller
4 that uses 500 pounds or less of coffee beans and ground coffee in pre-
5 paring specialty coffee beverages for sale per calendar year.

6 (b) The wholesale or retail seller liable for the excise tax imposed
7 under this section may add the excise tax to the wholesale price of the
8 coffee beans or ground coffee or to the retail price of the specialty
9 coffee beverages, as applicable.

10 (3)(a) Every person who sells coffee beans or ground coffee subject
11 to the excise tax imposed under this section shall:

12 (A) Submit to the Department of Revenue, on or before the last
13 business day of the month, on forms prescribed, prepared and fur-
14 nished by the department, and in the manner provided by the depart-
15 ment by rule, a signed statement of the gross weight of coffee beans
16 and ground coffee subject to the excise tax imposed under this section
17 during the preceding calendar month, whether sold at wholesale or
18 used in preparing specialty coffee beverages for sale at retail; and

19 (B) Pay to the department the amount of excise tax that corre-
20 sponds to the weight as reflected on the statement.

21 (b) Upon request, the department shall provide the seller with a
22 receipt for the amount of excise tax paid.

23 (c)(A) Upon receipt, the department shall cause the amount of the
24 excise tax to be deposited in the Alternative Education Sustainability
25 Fund established under section 2 of this 2017 Act.

26 (B) Before depositing the tax amounts as required under this para-
27 graph, the department may retain five percent of the amounts for the
28 actual costs to the department of administering the excise tax.
29 Amounts retained under this subparagraph may not exceed \$500,000 in
30 aggregate per biennium.

31 (4)(a) If the excise tax imposed under this section is not paid as

1 required, the department shall charge interest at the rate of 0.0329
2 percent per day until the tax and interest have been paid in full.

3 (b) If the excise tax is overpaid, the department shall issue a refund
4 to the seller in the amount of the overpayment.

5 (5) If a seller fails to pay in full any tax or interest due under this
6 section, the department may issue a warrant for the amount due, with
7 the added interest and the cost of executing the warrant. A copy of
8 the warrant shall be mailed or delivered to the seller by the depart-
9 ment at the seller's last-known address.

10 (6) At any time after issuing a warrant under this section, the de-
11 partment may record the warrant in the County Clerk Lien Record of
12 any county of this state. Recording of the warrant has the effect de-
13 scribed in ORS 205.125. After recording a warrant, the department may
14 direct the sheriff for the county in which the warrant is recorded to
15 levy upon and sell the real and personal property of the seller found
16 within that county, and to levy upon any currency of the seller found
17 within that county, for the application of the proceeds or currency
18 against the amount reflected in the warrant and the sheriff's cost of
19 executing the warrant. The sheriff shall proceed on the warrant in the
20 same manner prescribed by law for executions issued against property
21 pursuant to a judgment, and is entitled to the same fees as provided
22 for executions issued against property pursuant to a judgment. The
23 fees of the sheriff shall be added to and collected as a part of the
24 warrant liability.

25 (7) In the discretion of the department a warrant under this section
26 may be directed to any agent authorized by the department to collect
27 taxes, and in the execution of the warrant the agent has all of the
28 powers conferred by law upon sheriffs, but is entitled to no fee or
29 compensation in excess of actual expenses paid in the performance of
30 the agent's duty.

31 SECTION 2. (1) The Alternative Education Sustainability Fund is

1 established in the State Treasury, separate and distinct from the
2 General Fund. Interest earned by the Alternative Education
3 Sustainability Fund shall be credited to the fund. The fund shall con-
4 sist of:

5 (a) Moneys deposited by the Department of Revenue under section
6 1 (3) of this 2017 Act; and

7 (b) Interest earnings on moneys in the fund.

8 (2) All moneys in the fund are continuously appropriated to the
9 Oregon Department of Administrative Services for the purpose of
10 making distributions described in subsections (3) and (4) of this sec-
11 tion.

12 (3)(a) Fifty percent of the moneys in the fund shall be distributed
13 to the Oregon Military Department for allocation to the Oregon Na-
14 tional Guard Youth Challenge Program.

15 (b) The moneys shall be distributed pursuant to recommendations
16 of the Alternative Education Sustainability Board established under
17 section 4 of this 2017 Act and may be expended for the costs of oper-
18 ations and capital construction of the program.

19 (c) The Oregon Military Department may retain five percent of the
20 moneys in the fund to defray the actual administrative costs incurred
21 by the department under this subsection. Moneys retained under this
22 paragraph may not exceed \$500,000 in aggregate per biennium.

23 (4) Fifty percent of the moneys in the fund shall be distributed to
24 the Department of Education to make grants, pursuant to section 3
25 of this 2017 Act, to school districts that operate alternative high school
26 programs and to primary schools.

27 SECTION 3. (1)(a) School districts that operate alternative high
28 school programs, and primary schools, may submit applications to the
29 Department of Education for grants to be made from the Alternative
30 Education Sustainability Fund established under section 2 of this 2017
31 Act.

1 (b) Applications must be made in the manner and contain the in-
2 formation required by the department.

3 (2) The department may make grants for the following purposes:

4 (a) The costs of operations and capital construction of alternative
5 high school programs.

6 (b) Primary school reading programs, in an amount not to exceed
7 10 percent of the total grant moneys distributed pursuant to this sec-
8 tion, if the grants are approved by the Governor.

9 (3) The Alternative Education Sustainability Board established un-
10 der section 4 of this 2017 Act shall adopt criteria for awarding grants
11 under this section and shall notify the department of the criteria. The
12 criteria for an alternative high school program shall include whether
13 the program has demonstrated an increase in student achievement,
14 measured by nationally accepted testing programs, equal to the his-
15 torical student achievement levels of the Oregon National Guard
16 Youth Challenge Program. Conditions other than those contained in
17 the criteria adopted under this subsection may not be imposed on a
18 grant.

19 (4) The department shall annually review all applications and sub-
20 mit to the board recommendations for recipients of grants under this
21 section.

22 (5)(a) The board shall annually decide upon a final award of grants
23 and submit the final award list to the Governor for approval.

24 (b) If the Governor approves or modifies the final award list, the
25 board shall notify the department and the department shall make the
26 grants, as approved or modified, pursuant to section 2 (4) of this 2017
27 Act.

28 (c) The department may not make grants pursuant to section 2 (4)
29 of this 2017 Act unless the Governor approves the final award list as
30 submitted or as modified.

31 (d) Once the final award list has been approved by the Governor,

1 the board shall submit a report of the grant awards to committees of
2 the Legislative Assembly related to education.

3 **SECTION 4.** (1) The Alternative Education Sustainability Board is
4 established, consisting of seven members as follows:

5 (a) One member who is the Adjutant General appointed under ORS
6 396.150 or the designee of the Adjutant General.

7 (b) Four members appointed by the Governor as follows, to serve
8 for a term of two years:

9 (A) One member with significant experience in high school alter-
10 native education, from recommendations by the Department of Edu-
11 cation;

12 (B) One member who is an employee of the State of Oregon, from
13 recommendations by the Adjutant General;

14 (C) One member who is a member of the advisory board of the
15 Oregon National Guard Youth Challenge Program; and

16 (D) One member employed by a school district in which a residen-
17 tial program is operated.

18 (c) One member appointed by the President of the Senate from
19 among the members of the Senate, to serve for a term of two years.

20 (d) One member appointed by the Speaker of the House of Repre-
21 sentatives from the members of the House of Representatives, to serve
22 for a term of two years.

23 (2) The Alternative Education Sustainability Board shall:

24 (a) Decide upon recommendations to the Oregon Military Depart-
25 ment for allocations to the Oregon National Guard Youth Challenge
26 Program under section 2 (3) of this 2017 Act.

27 (b) Decide upon final awards of grants, provide notifications and
28 submit reports as required under section 3 of this 2017 Act.

29 (3)(a) The Adjutant General or the designee of the Adjutant General
30 shall serve as the chair of the board.

31 (b) The members of the board shall elect a member to serve as vice

1 **chair for a term of two years.**

2 **(4) A majority of the members of the board constitutes a quorum**
3 **for the transaction of business.**

4 **(5) Official action by the board requires the approval of a majority**
5 **of the members of the board.**

6 **(6) If there is a vacancy for any cause, the appointing authority**
7 **shall make an appointment to become immediately effective.**

8 **(7) The board shall meet annually at a time and place specified by**
9 **the call of the chair or of a majority of the members of the board.**

10 **(8) Members of the board who are members of the Legislative As-**
11 **sembly shall receive compensation and expenses as provided in ORS**
12 **171.072.**

13 **(9) Meetings of the board shall be conducted according to the latest**
14 **edition of Robert's Rules of Order published by the Robert's Rules**
15 **Association.**

16 **(10) The Oregon Military Department shall supply staff support to**
17 **the board.**

18 **(11) All agencies of state government, as defined in ORS 174.111, are**
19 **directed to assist the board in the performance of its duties and, to the**
20 **extent permitted by laws relating to confidentiality, to furnish such**
21 **information and advice as the members of the board consider neces-**
22 **sary to perform their duties.**

23 **SECTION 5. (1) Section 1 of this 2017 Act applies to coffee beans and**
24 **ground coffee sold at wholesale and to specialty coffee beverages sold**
25 **at retail on or after July 1, 2018.**

26 **(2) Sections 1 to 4 of this 2017 Act become operative on July 1, 2018.**

27 **(3)(a) Members of the Alternative Education Sustainability Board**
28 **may be appointed before the operative date specified in subsection (2)**
29 **of this section and, once the full membership is appointed, the board**
30 **may take any action before that date that is necessary to enable the**
31 **board to exercise, on and after the operative date specified in sub-**

1 section (2) of this section, the duties, functions and powers of the
2 board pursuant to section 4 of this 2017 Act.

3 (b) The Department of Revenue, the Oregon Department of Ad-
4 ministrative Services, the Oregon Military Department and the De-
5 partment of Education may take any action before the operative date
6 specified in subsection (2) of this section that is necessary to enable
7 the department to comply, on and after that date, with the applicable
8 provisions of sections 1 to 4 of this 2017 Act.

9 SECTION 6. This 2017 Act takes effect on the 91st day after the date
10 on which the 2017 regular session of the Seventy-ninth Legislative
11 Assembly adjourns sine die.

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