

# House Bill 2875

Sponsored by COMMITTEE ON REVENUE

## SUMMARY

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

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 providing for revenue  
3 raising that requires approval by a three-fifths majority.

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

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

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

11 **(B) The excise tax imposed under this subsection shall be imposed on coffee beans and**  
12 **ground coffee used to prepare specialty coffee beverages for sale at retail if the excise tax**  
13 **imposed under subparagraph (A) of this paragraph has not been paid on the coffee beans and**  
14 **ground coffee. This subparagraph does not apply to any retail seller that uses 500 pounds or**  
15 **less of coffee beans and ground coffee in preparing specialty coffee beverages for sale per**  
16 **calendar year.**

17 **(b) The wholesale or retail seller liable for the excise tax imposed under this section may**  
18 **add the excise tax to the wholesale price of the coffee beans or ground coffee or to the retail**  
19 **price of the specialty coffee beverages, as applicable.**

20 **(3)(a) Every person who sells coffee beans or ground coffee subject to the excise tax im-**  
21 **posed under this section shall:**

22 **(A) Submit to the Department of Revenue, on or before the last business day of the**  
23 **month, on forms prescribed, prepared and furnished by the department, and in the manner**  
24 **provided by the department by rule, a signed statement of the gross weight of coffee beans**  
25 **and ground coffee subject to the excise tax imposed under this section during the preceding**  
26 **calendar month, whether sold at wholesale or used in preparing specialty coffee beverages**  
27 **for sale at retail; and**

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

1 (B) Pay to the department the amount of excise tax that corresponds to the weight as  
2 reflected on the statement.

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

5 (c)(A) Upon receipt, the department shall cause the amount of the excise tax to be de-  
6 posited in the Alternative Education Sustainability Fund established under section 2 of this  
7 2017 Act.

8 (B) Before depositing the tax amounts as required under this paragraph, the department  
9 may retain five percent of the amounts for the actual costs to the department of adminis-  
10 tering the excise tax. Amounts retained under this subparagraph may not exceed \$500,000 in  
11 aggregate per biennium.

12 (4)(a) If the excise tax imposed under this section is not paid as required, the department  
13 shall charge interest at the rate of 0.0329 percent per day until the tax and interest have  
14 been paid in full.

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

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

21 (6) At any time after issuing a warrant under this section, the department may record  
22 the warrant in the County Clerk Lien Record of any county of this state. Recording of the  
23 warrant has the effect described in ORS 205.125. After recording a warrant, the department  
24 may direct the sheriff for the county in which the warrant is recorded to levy upon and sell  
25 the real and personal property of the seller found within that county, and to levy upon any  
26 currency of the seller found within that county, for the application of the proceeds or cur-  
27 rency against the amount reflected in the warrant and the sheriff's cost of executing the  
28 warrant. The sheriff shall proceed on the warrant in the same manner prescribed by law for  
29 executions issued against property pursuant to a judgment, and is entitled to the same fees  
30 as provided for executions issued against property pursuant to a judgment. The fees of the  
31 sheriff shall be added to and collected as a part of the warrant liability.

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

36 **SECTION 2.** (1) The Alternative Education Sustainability Fund is established in the State  
37 Treasury, separate and distinct from the General Fund. Interest earned by the Alternative  
38 Education Sustainability Fund shall be credited to the fund. The fund shall consist of:

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

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

42 (2) All moneys in the fund are continuously appropriated to the Oregon Department of  
43 Administrative Services for the purpose of making distributions described in subsections (3)  
44 and (4) of this section.

45 (3)(a) Fifty percent of the moneys in the fund shall be distributed to the Oregon Military

1 Department for allocation to the Oregon National Guard Youth Challenge Program.

2 (b) The moneys shall be distributed pursuant to recommendations of the Alternative  
3 Education Sustainability Board established under section 4 of this 2017 Act and may be ex-  
4 pended for the costs of operations and capital construction of the program.

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

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

11 **SECTION 3.** (1)(a) School districts that operate alternative high school programs, and  
12 primary schools, may submit applications to the Department of Education for grants to be  
13 made from the Alternative Education Sustainability Fund established under section 2 of this  
14 2017 Act.

15 (b) Applications must be made in the manner and contain the information required by  
16 the department.

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

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

19 (b) Primary school reading programs, in an amount not to exceed 10 percent of the total  
20 grant moneys distributed pursuant to this section, if the grants are approved by the Gover-  
21 nor.

22 (3) The Alternative Education Sustainability Board established under section 4 of this  
23 2017 Act shall adopt criteria for awarding grants under this section and shall notify the de-  
24 partment of the criteria. The criteria for an alternative high school program shall include  
25 whether the program has demonstrated an increase in student achievement, measured by  
26 nationally accepted testing programs, equal to the historical student achievement levels of  
27 the Oregon National Guard Youth Challenge Program. Conditions other than those contained  
28 in the criteria adopted under this subsection may not be imposed on a grant.

29 (4) The department shall annually review all applications and submit to the board rec-  
30 ommendations for recipients of grants under this section.

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

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

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

38 (d) Once the final award list has been approved by the Governor, the board shall submit  
39 a report of the grant awards to committees of the Legislative Assembly related to education.

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

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

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

45 (A) One member with significant experience in high school alternative education, from

1 recommendations by the Department of Education;

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

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

6 (D) One member employed by a school district in which a residential program is operated.

7 (e) One member appointed by the President of the Senate from among the members of  
8 the Senate, to serve for a term of two years.

9 (d) One member appointed by the Speaker of the House of Representatives from the  
10 members of the House of Representatives, to serve for a term of two years.

11 (2) The Alternative Education Sustainability Board shall:

12 (a) Decide upon recommendations to the Oregon Military Department for allocations to  
13 the Oregon National Guard Youth Challenge Program under section 2 (3) of this 2017 Act.

14 (b) Decide upon final awards of grants, provide notifications and submit reports as re-  
15 quired under section 3 of this 2017 Act.

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

18 (b) The members of the board shall elect a member to serve as vice chair for a term of  
19 two years.

20 (4) A majority of the members of the board constitutes a quorum for the transaction of  
21 business.

22 (5) Official action by the board requires the approval of a majority of the members of the  
23 board.

24 (6) If there is a vacancy for any cause, the appointing authority shall make an appoint-  
25 ment to become immediately effective.

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

28 (8) Members of the board who are members of the Legislative Assembly shall receive  
29 compensation and expenses as provided in ORS 171.072.

30 (9) Meetings of the board shall be conducted according to the latest edition of Robert's  
31 Rules of Order published by the Robert's Rules Association.

32 (10) The Oregon Military Department shall supply staff support to the board.

33 (11) All agencies of state government, as defined in ORS 174.111, are directed to assist  
34 the board in the performance of its duties and, to the extent permitted by laws relating to  
35 confidentiality, to furnish such information and advice as the members of the board consider  
36 necessary to perform their duties.

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

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

40 (3)(a) Members of the Alternative Education Sustainability Board may be appointed be-  
41 fore the operative date specified in subsection (2) of this section and, once the full member-  
42 ship is appointed, the board may take any action before that date that is necessary to enable  
43 the board to exercise, on and after the operative date specified in subsection (2) of this sec-  
44 tion, the duties, functions and powers of the board pursuant to section 4 of this 2017 Act.

45 (b) The Department of Revenue, the Oregon Department of Administrative Services, the

1 **Oregon Military Department and the Department of Education may take any action before**  
2 **the operative date specified in subsection (2) of this section that is necessary to enable the**  
3 **department to comply, on and after that date, with the applicable provisions of sections 1 to**  
4 **4 of this 2017 Act.**

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

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