

DRAFT

SUMMARY

Modifies, adds and repeals laws relating to transportation.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to transportation; creating new provisions; amending ORS 166.360, 184.657, 279A.142, 279B.050, 279C.307, 279C.335, 315.591, 319.020, 319.330, 319.665, 319.671, 319.950, 320.400, 346.510, 366.505, 367.010, 367.555, 367.560, 367.615, 367.806, 367.816, 381.312, 383.003, 383.004, 383.009, 383.014, 383.015, 383.017, 383.035, 383.045, 383.075, 383.150, 757.357, 803.102, 803.210, 807.072, 807.175, 811.260, 811.602, 811.604, 811.605, 811.613, 811.616, 815.140, 819.010, 819.016, 824.022, 824.026, 824.060, 824.068, 824.088, 824.990, 824.992, 825.400, 825.402 and 825.404 and section 7, chapter 700, Oregon Laws 2015; repealing ORS 184.631, 383.006, 383.013, 383.023, 383.065, 383.155 and 824.104 and sections 6 and 8, chapter 700, Oregon Laws 2015, and sections 2 and 3, chapter 24, Oregon Laws 2018; and prescribing an effective date.

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

IN GENERAL

SECTION 1. ORS 811.602, as amended by section 2, chapter 413, Oregon Laws 2019, is amended to read:

811.602. (1) A disabled person parking permit is a means of identifying vehicles being used to exercise the parking privileges described in ORS 811.635. The following are disabled person parking permits:

(a) A special decal described in ORS 811.605 issued by the Department of Transportation to be affixed to a golf cart or substantially similar vehicle;

(b) An individual placard described in ORS 811.605;

(c) A program placard issued by the department under ORS 811.607;

(d) A family placard issued by the department under ORS 811.609;

(e) A foreign visitor placard issued by the department under ORS 811.611;

(f) A “Wheelchair User” placard or decal issued by the department under ORS 811.613; and

(g) An “Oregon Wounded Warrior” placard or decal issued by the department under ORS 811.616.

(2) The department shall issue a disabled person parking permit in the form of a decal or individual placard to any person who submits an application that complies with ORS 811.604. Nothing in this section prohibits the department from issuing a decal or individual placard to a person who has disabled veteran registration plates issued under ORS 805.100 and who qualifies for the decal or placard.

(3) Except as otherwise provided in this subsection, the department may not issue more than one individual placard to an applicant. The department may issue a replacement placard upon receipt of proof satisfactory to the department that the original placard has been lost, mutilated or destroyed. The department may issue a temporary duplicate permit to a person who needs a duplicate permit for travel purposes. A temporary duplicate permit shall be valid for 120 days. The department shall adopt rules governing application for and issuance of temporary duplicate permits. Nothing in this subsection prohibits issuance of an individual placard to a person who has been issued a decal.

[(4) Permits issued under this section may be renewed by mail.]

[(5)] (4) Permits for use on vehicles that are regularly used as part of a program for the transportation of persons with disabilities are issued as provided in ORS 811.607.

[(6)] (5) Except as provided in subsection *[(7)]* (6) of this section, the de-

partment shall determine the form, size and content of any decal or placard issued under this section and shall adopt rules governing their issuance, display and use as necessary to carry out this section.

[(7)(a)] **(6)(a)** Except as provided in paragraph (b) of this subsection, the department may not require a decal or placard issued under this section to an individual or a family to contain any identifying information about the person to whom the decal or placard is issued, including any of the following:

- (A) Name;
- (B) Address;
- (C) Telephone number;
- (D) Social Security number;
- (E) Driver license number;
- (F) Golf cart driver permit number;
- (G) Identification card number;
- (H) Passport or visa number; or
- (I) Photograph.

(b) The department may require a decal or placard issued under this section to an individual or a family to contain not more than four digits of the driver license or identification card number of the person to whom the decal or placard is issued.

SECTION 2. Section 3 of this 2021 Act is added to and made a part of the Oregon Vehicle Code.

SECTION 3. The Department of Transportation shall invalidate a disabled parking permit issued under ORS 811.602 if any of the following occurs:

(1) The person issued an individual or “Wheelchair User” placard or permit has since obtained a driver license or driver permit issued by another jurisdiction or has since obtained an identification card in another jurisdiction that is similar to the person’s identification card issued by this state.

1 **(2) The department receives notice that the person issued a disabled**
2 **parking permit is deceased.**

3 **(3) The department determines that the disabled parking permit was**
4 **issued under fraudulent circumstances.**

5 **(4) The person, program or family for which the permit was issued**
6 **no longer qualifies for the permit.**

7 **SECTION 4.** ORS 811.604 is amended to read:

8 811.604. Application for issuance or renewal of a disabled person parking
9 permit in the form of an individual placard or decal issued under ORS
10 811.602 shall include:

11 (1) A certificate, signed and dated within six months preceding the date
12 of application, by a licensed physician, a licensed nurse practitioner or a li-
13 censed physician assistant to the Department of Transportation that the ap-
14 plicant is a person with a disability or a certificate, signed and dated within
15 six months preceding the date of application, by a licensed optometrist that
16 the applicant is a person with a disability because of loss of vision or sub-
17 stantial loss of visual acuity or visual field beyond correction;

18 (2) The state-issued licensing number of the licensed physician, certified
19 nurse practitioner, licensed physician assistant or licensed optometrist who
20 signed the certificate described in subsection (1) of this section; and

21 (3) The number of a [*current, valid*] driver license, [*golf cart*] driver per-
22 mit, identification card or parking identification card issued to the applicant
23 by the department.

24 **SECTION 5.** ORS 811.605 is amended to read:

25 811.605. (1) An applicant for an individual placard or decal issued by the
26 Department of Transportation under ORS 811.602 must have a driver license,
27 a [*disability golf cart*] driver permit, an identification card or a parking
28 identification card issued by the department. [*The placard or decal shall be*
29 *valid so long as the license, permit, identification card or parking identifica-*
30 *tion card is valid and may be renewed when the license, permit or card is re-*
31 *newed.*]

(2) An individual placard or decal shall contain an expiration date that is visible from outside the vehicle when the placard or decal is displayed on or in the vehicle. The expiration date shall be the same as the expiration date of the driver license, golf cart driver permit, identification card or parking identification card of the holder of the placard.

(3) A placard or decal issued under this section shall be valid for a period of eight years from the date of issue. A placard or decal may be renewed in a manner determined by the department by rule.

SECTION 6. ORS 811.613 is amended to read:

811.613. (1) The Department of Transportation shall issue a “Wheelchair User” disabled person parking permit in the form of a “Wheelchair User” placard or decal for use by a person who uses a wheelchair or similar low-powered motorized or mechanically propelled vehicle designed specifically for use by a person with a physical disability.

(2) The department shall determine the form, size and content of the placards or decals, except that the department shall require that the placards or decals:

(a) Include the words “Wheelchair User.”

(b) Have an expiration date that is visible from outside the vehicle when the placard or decal is displayed on or in the vehicle.

(3) The department shall by rule determine how a person may qualify for a “Wheelchair User” placard or decal under this section.

(4) An applicant for a “Wheelchair User” placard or decal issued by the department under this section must have a driver license, a [*disability golf cart*] driver permit or an identification card issued by the department. [*The placard or decal shall be valid as long as the license, permit or identification card is valid and may be renewed when the license, permit or identification card is renewed.*]

[*(5) The expiration date shall be the same as the expiration date of the driver license, disability golf cart driver permit or identification card of the holder of the placard or decal.*]

1 **(5) A placard or decal issued under this section shall be valid for a**
2 **period of eight years from the date of issue. A placard or decal may**
3 **be renewed in a manner determined by the department by rule.**

4 **SECTION 7.** ORS 811.616 is amended to read:

5 811.616. (1) The Department of Transportation shall issue an “Oregon
6 Wounded Warrior” disabled person parking permit in the form of an “Oregon
7 Wounded Warrior” placard or decal for use by a wounded warrior.

8 (2) A person is a wounded warrior who qualifies for an “Oregon Wounded
9 Warrior” parking permit if the person:

10 (a) Submits written proof to the Department of Transportation of having
11 a United States Department of Veterans Affairs total disability rating of at
12 least 50 percent as a result of an injury or illness that the veteran incurred,
13 or that was aggravated, during active military service; and

14 (b) Received a discharge or release under other than dishonorable condi-
15 tions.

16 (3) The Department of Transportation shall determine the form, size and
17 content of the placards or decals, except that the department shall require
18 that the placards or decals:

19 (a) Include the words “Oregon Wounded Warrior.”

20 (b) Have an expiration date that is visible from outside the vehicle when
21 the placard or decal is displayed on or in the vehicle.

22 (4) The Department of Transportation shall by rule determine how a per-
23 son may apply for an “Oregon Wounded Warrior” placard or decal under this
24 section.

25 (5) An applicant for an “Oregon Wounded Warrior” placard or decal is-
26 sued by the Department of Transportation under this section must have a
27 driver license, a [*disability golf cart*] driver permit or an identification card
28 issued by the department. [*The placard or decal shall be valid as long as the*
29 *license, permit or identification card is valid and may be renewed when the*
30 *license, permit or identification card is renewed.*]

31 [(6) *The expiration date shall be the same as the expiration date of the*

1 *driver license, disability golf cart driver permit or identification card of the*
2 *holder of the placard or decal.]*

3 **(6) A placard or decal issued under this section shall be valid for a**
4 **period of eight years from the date of issue. A placard or decal may**
5 **be renewed in a manner determined by the department by rule.**

6 **SECTION 8.** ORS 819.016 is amended to read:

7 819.016. (1) Except as provided in subsection (2) of this section, when the
8 provisions of ORS 819.010, 819.012 or 819.014 require a person to surrender
9 to the Department of Transportation a certificate of title for a vehicle, or
10 when a person acquires a vehicle under the provisions of ORS 819.215, the
11 person shall apply to the department for a salvage title for the vehicle. The
12 application shall comply with the requirements of ORS 803.140.

13 (2) When the person is not required to surrender a certificate of title be-
14 cause title for the vehicle was issued in some other form, the person shall
15 follow procedures adopted by the department by rule.

16 *[(3) Subsections (1) and (2) of this section do not apply if the person does*
17 *not intend to rebuild or repair the vehicle, to transfer the vehicle or to use the*
18 *frame or unibody of the vehicle for repairing or constructing another vehicle.]*

19 **(3) Subsections (1) and (2) of this section do not apply if the person:**

20 **(a) Does not intend to rebuild or repair the vehicle, to transfer the**
21 **vehicle or to use frame or unibody of the vehicle for repairing or**
22 **constructing another vehicle; or**

23 **(b) The person rebuilds or repairs the vehicle and applies to title the**
24 **vehicle with the designation of assembled, reconstructed or replica.**

25 **SECTION 9.** ORS 824.068 is amended to read:

26 824.068. (1) The Department of Transportation shall prescribe standards
27 for water quality *[and sanitation facilities]* on railroad locomotives *[and*
28 *caboose]* in this state.

29 (2) The department may for good cause shown permit variances from the
30 standards so prescribed.

31 **SECTION 10.** ORS 319.665 is amended to read:

319.665. (1) The seller of fuel for use in a motor vehicle shall collect the tax provided by ORS 319.530 at the time the fuel is sold, unless one of the following situations applies:

[(a) The Department of Transportation has issued a weight identifier under ORS 825.450 for the vehicle into which the seller delivers or places the fuel.]

(a) The Department of Transportation has issued for the vehicle into which the seller delivers or places the fuel a weight identifier under ORS 825.450 or a valid user's emblem under ORS 319.600.

(b) The fuel is dispensed at a nonretail facility, in which case the seller shall collect any tax owed at the same time the seller collects the purchase price from the person to whom the fuel was dispensed at the nonretail facility. A seller is not required to collect the tax under this paragraph from a person who certifies to the seller that the use of the fuel is exempt from the tax imposed under ORS 319.530.

(c) A cardlock card is used for purchase of the fuel at an attended portion of a retail facility equipped with a cardlock card reader, in which case the cardlock card issuer licensed in this state is responsible for collecting and remitting the tax unless the person making the purchase certifies to the seller that the use of the fuel is exempt from the tax imposed under ORS 319.530.

(2) If a cardlock card is used for purchase of fuel at an attended portion of a retail facility equipped with a cardlock card reader, the seller at the retail facility may deduct fuel purchases made with a cardlock card from the seller's retail transactions if the seller provides the department with the following information:

(a) A monthly statement from a cardlock card issuer that details the cardlock card purchases at the retail facility; and

(b) A listing of cardlock card issuers and gallons of fuel purchased at the retail facility by the issuers' customers.

(3) The department shall supply each seller of fuel for use in a motor vehicle with a chart which sets forth the tax imposed on given quantities

1 of fuel.

2 **SECTION 11.** ORS 319.671 is amended to read:

3 319.671. (1) The seller of fuel for any purpose shall make a duplicate in-
4 voice for every sale of fuel for any purpose and shall retain one copy and
5 give the other copy to the user. The Department of Transportation may pre-
6 scribe the form of the invoice. The invoice shall show:

- 7 (a) The seller's name and address;
- 8 (b) The date;
- 9 (c) The amount of the sale in gallons; and
- 10 (d) The name and address of the user.

11 (2) In addition to the invoice entries listed in subsection (1) of this sec-
12 tion, the seller of fuel for use in a motor vehicle shall indicate on the invoice
13 the amount of the tax collected, if any, and:

- 14 (a) The license plate number, if the vehicle bears a license plate issued
15 by the department or another jurisdiction;
- 16 (b) The emblem number, if the vehicle bears a user's emblem; *[or]*
- 17 (c) The temporary pass number, if the vehicle bears no valid user's
18 emblem *[or license plate issued by the department.]; or*

19 **(d) The license plate number, if the vehicle bears no valid user's**
20 **emblem or temporary pass number issued by the department.**

21 (3) Notwithstanding subsection (1) of this section, this section does not
22 require any invoice to be prepared for any sale where fuel is delivered into
23 the fuel tank of a vehicle described in this subsection unless the operator
24 of the vehicle requests an invoice. If an invoice is prepared under this sub-
25 section, the name and address of a user is not required to be shown on the
26 invoice for sales where the fuel is delivered into the fuel tanks of vehicles
27 described in this subsection. This subsection applies to vehicles:

- 28 (a) That have a combined weight of 26,000 pounds or less; and
- 29 (b)(A) For which the tax under ORS 319.530 must be paid at the time of
30 sale under ORS 319.665; or
- 31 (B) For which an emblem has been issued under ORS 319.535.

SECTION 12. ORS 819.010 is amended to read:

819.010. (1) A person commits the offense of failure to comply with requirements for destruction of a vehicle if the person wrecks, dismantles[,] **or** disassembles [*or substantially alters*] the form of any vehicle that is or is required to be registered or titled under the vehicle code or under ORS chapter 826 and the person does not comply with all of the following:

(a) The person must give notice to the Department of Transportation, in a form specified by the department, of the person's intention to dismantle, disassemble[,] **or** wreck [*or substantially alter*] the form of the vehicle at least seven days prior to commencement thereof.

(b) If the vehicle is visible from a public right of way, the person must complete the wrecking, dismantling[,] **or** disassembling [*or substantial alteration*] of **the form of the vehicle** within 30 days from the commencement thereof.

(c) If the vehicle is registered by this state, the person must deliver or mail to the department the registration card, certificate of title, if one has been issued, and registration plates of the vehicle within 30 days after the person wrecks, dismantles[,] **or** disassembles [*or substantially alters*] the form of the vehicle.

(d) If no certificate of title has been issued for the vehicle, the person must notify the department in a manner determined by the department by rule within 30 days after the person wrecks, dismantles[,] **or** disassembles [*or substantially alters*] the form of the vehicle.

(e) If required to do so under ORS 819.016, the person shall apply for a salvage title for the vehicle.

(2) This section does not apply to persons who are acting within the scope of a dismantler certificate issued under ORS 822.110.

(3) The offense described in this section, failure to comply with requirements for destruction of vehicle, is a Class A misdemeanor.

SECTION 13. ORS 319.950 is amended to read:

319.950. (1) **The governing body of** a city, county or other local gov-

ernment may enact or amend any charter provision, ordinance, resolution or other provision taxing fuel for motor vehicles after submitting the proposed tax to the electors of the local government for their approval.

(2) The governing body of a local government that imposes a tax on fuel for motor vehicles pursuant to this section may enter into an agreement with the Department of Transportation pursuant to which the department shall collect and distribute the revenues from the tax.

SECTION 14. The amendments to ORS 319.950 by section 13 of this 2021 Act apply to agreements entered into on or after January 1, 1977, by the governing body of a city, county or other local government with the Department of Transportation for purposes of the collection and distribution of revenues from taxes on fuel for motor vehicles by the department.

SECTION 15. ORS 346.510 is amended to read:

346.510. As used in ORS 346.510 to 346.570:

(1) “Cafeteria” means a food-dispensing facility:

(a) That can provide a variety of prepared foods and beverages;

(b) Where a patron may move through a self-service line;

(c) That may employ some servers to wait on patrons; and

(d) That provides seating suitable for patrons to consume meals.

(2) “Healthy vending item” and “local vending item” have the meanings given those terms by rules adopted by the Commission for the Blind in consultation with the Public Health Director and the business enterprise consumer committee.

(3) “Person who is blind” means a person who has not more than 20/200 visual acuity in the better eye with best correction or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision to such a degree that its widest diameter subtends an angle of no greater than 20 degrees and whose blindness is certified by a licensed physician who specializes in diseases of the eye.

(4) “Political subdivision” means a local government as defined in ORS

174.116, a municipality, town or village of this state.

(5) “Public building” or “property” means a building, land or other real property, or a portion of a building, land or other real property, that is occupied by a department or an agency of the State of Oregon or by a political subdivision, except for a public elementary school, a secondary school, a public university listed in ORS 352.002 or a public corporation created pursuant to ORS 353.020.

(6) “Vending facility” means:

(a) Shelters, counters, shelving, display and wall cases, refrigerating apparatus and other appropriate auxiliary equipment that are necessary or customarily used for the vending of articles, including an established mix of healthy vending items approved by the Commission for the Blind and the agency, department or political subdivision charged with maintaining the public building or property where the vending facility is located;

(b) Vending machines; or

(c) Cafeterias or snack bars for the dispensing of foodstuffs and beverages.

(7) “Vending facility manager” means a person who is:

(a) Blind;

(b) Responsible for the day-to-day conduct of the vending facility operation; and

(c) Licensed under ORS 346.510 to 346.570.

(8) “Vending machine” means a manual or coin-operated machine or a similar device used for vending articles, including machines or devices that accept electronic payment.

(9) “Visitor venue” means a public building or property that is operated by a political subdivision of this state and that is:

(a) A convention, event or exposition center;

(b) A zoo;

(c) A performing arts center;

(d) A museum;

(e) A golf course;

(f) A facility primarily used for sporting events; or

(g) A commercial airport owned and operated by a city, **a county** or a port district organized under ORS chapter 778.

SECTION 16. ORS 811.260 is amended to read:

811.260. Except as provided in ORS 811.265 (2), a driver is in violation of ORS 811.265 if the driver makes a response to traffic control devices that is not permitted under the following:

(1) Green signal. A driver facing a green light may proceed straight through or turn right or left unless a sign at that place prohibits either turn. A driver shall yield the right of way to other vehicles within the intersection at the time the green light is shown.

(2) Green arrow. A driver facing a green arrow signal light, shown alone or in combination with another signal, may cautiously enter the intersection only to make the movement indicated by such arrow or such other movement as is permitted by other signals shown at the same time.

(3) Green bicycle signal. A bicyclist facing a green bicycle signal may proceed straight through or turn right or left unless a sign at that place prohibits either turn. The bicyclist shall yield the right of way to other vehicles within the intersection at the time the green bicycle signal is shown.

(4) Steady circular yellow signal. A driver facing a steady circular yellow signal light is thereby warned that the related right of way is being terminated and that a red or flashing red light will be shown immediately. A driver facing the light shall stop at a clearly marked stop line, but if none, shall stop before entering the marked crosswalk on the near side of the intersection, or if there is no marked crosswalk, then before entering the intersection. If a driver cannot stop in safety, the driver may drive cautiously through the intersection.

(5) Steady yellow arrow signal. A driver facing a steady yellow arrow signal, alone or in combination with other signal indications, is thereby warned that the related right of way is being terminated. Unless entering the intersection to make a movement permitted by another signal, a driver facing

1 a steady yellow arrow signal shall stop at a clearly marked stop line, but if
2 none, shall stop before entering the marked crosswalk on the near side of the
3 intersection, or if there is no marked crosswalk, then before entering the
4 intersection. If a driver cannot stop in safety, the driver may drive cau-
5 tiously through the intersection.

6 (6) Steady yellow bicycle signal. A bicyclist facing a steady yellow bicycle
7 signal is thereby warned that the related right of way is being terminated
8 and that a red bicycle signal will be shown immediately. A bicyclist facing
9 a steady yellow bicycle signal shall stop at a clearly marked stop line, but
10 if none, shall stop before entering the marked crosswalk on the near side of
11 the intersection, or if there is no marked crosswalk, then before entering the
12 intersection. If a bicyclist cannot stop in safety, the bicyclist may proceed
13 cautiously through the intersection.

14 (7) Steady circular red signal. A driver facing a steady circular red signal
15 light alone shall stop at a clearly marked stop line, but if none, before en-
16 tering the marked crosswalk on the near side of the intersection, or if there
17 is no marked crosswalk, then before entering the intersection. The driver
18 shall remain stopped until a green light is shown except when the driver is
19 permitted to proceed under ORS 811.360.

20 (8) Steady red arrow signal. A driver facing a steady red arrow signal,
21 alone or in combination with other signal indications, may not enter the
22 intersection to make the movement indicated by the red arrow signal. Unless
23 entering the intersection to make some other movement which is permitted
24 by another signal, a driver facing a steady red arrow signal shall stop at a
25 clearly marked stop line, but if none, before entering the marked crosswalk
26 on the near side of the intersection, or if there is no marked crosswalk, then
27 before entering the intersection. The vehicle shall remain stopped until a
28 green light is shown except when the driver is permitted to proceed under
29 ORS 811.360.

30 (9) Steady red bicycle signal. A bicyclist facing a steady red bicycle signal
31 shall stop at a clearly marked stop line, but if none, before entering the

marked crosswalk on the near side of the intersection, or if there is no marked crosswalk, then before entering the intersection. The bicyclist shall remain stopped until a green bicycle signal is shown except when the bicyclist is permitted to proceed under ORS 811.360.

(10) Traffic control devices at places other than intersections. If a traffic control device that is a signal is erected and maintained at a place other than an intersection, the provisions of this section relating to signals shall be applicable. A required stop shall be made at a sign or marking on the roadway indicating where the stop shall be made, but in the absence of such sign or marking the stop shall be made at the signal.

(11) Flashing red signal. When a driver approaches a flashing red light used in a traffic control device or with a traffic sign, the driver shall stop at a clearly marked stop line, but if none, before entering the marked crosswalk on the near side of the intersection, or if there is no marked crosswalk, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. The right to proceed shall be subject to the rules applicable after making a stop at a stop sign. This subsection does not apply to:

(a) A person operating a bicycle; or

(b) Drivers at railroad grade crossings. Conduct of a driver approaching a railroad grade crossing is governed by ORS 811.455.

(12) Flashing circular yellow signal. *[When a driver approaches a flashing circular yellow light used as a signal in a traffic control device or with a traffic sign, the driver may proceed through the intersection or past the signal only with caution.]* **When a driver facing a flashing circular yellow signal approaches an intersection, the driver may cautiously enter the intersection to proceed straight through, turn right or turn left except as such movement is modified by lane use signs, turn prohibition signs, lane markings, roadway design, separate turn signal indications or other traffic control devices.** This subsection does not apply at railroad grade crossings. Conduct of a driver approaching a railroad grade crossing

1 is governed by ORS 811.455.

2 (13) Flashing yellow arrow signal. A driver facing a flashing yellow arrow
3 signal, alone or in combination with other signal indications, may cautiously
4 enter the intersection only to make the movement indicated by the flashing
5 yellow arrow signal or the movement permitted by other signals shown at
6 the same time. A driver shall yield the right of way to other vehicles within
7 the intersection at the time the flashing yellow arrow signal is shown. In
8 addition, a driver turning left shall yield the right of way to other vehicles
9 approaching from the opposite direction so closely as to constitute an im-
10 mediate hazard during the time when the turning vehicle is moving across
11 or within the intersection.

12 (14) Lane direction control signals. When lane direction control signals
13 are placed over the individual lanes of a highway, a person may drive a ve-
14 hicle in any lane over which a green signal light is shown, but may not enter
15 or travel in any lane over which a red signal light is shown.

16 (15) Stop signs. A driver approaching a stop sign shall stop at a clearly
17 marked stop line, but if none, before entering the marked crosswalk on the
18 near side of the intersection or, if there is no marked crosswalk, then at the
19 point nearest the intersecting roadway where the driver has a view of ap-
20 proaching traffic on the intersecting roadway before entering it. After stop-
21 ping, the driver shall yield the right of way to any vehicle in the intersection
22 or approaching so close as to constitute an immediate hazard during the time
23 when the driver is moving across or within the intersection. This subsection
24 does not apply to a person operating a bicycle.

25 (16) Yield signs. A driver approaching a yield sign shall slow the driver's
26 vehicle to a speed reasonable for the existing conditions and if necessary for
27 safety, shall stop at a line as required for stop signs under this section, and
28 shall yield the right of way to any vehicles in the intersection or approach-
29 ing so closely as to constitute an immediate hazard.

30 **(17) Flashing yellow beacon. When a flashing yellow beacon is used**
31 **to supplement another traffic control device, a driver shall pay extra**

1 **attention to the message provided by the beacon and follow the re-**
2 **quirements of the other traffic control device, which might not be**
3 **otherwise applicable at all times.**

4 **SECTION 17.** ORS 166.360 is amended to read:

5 166.360. As used in ORS 166.360 to 166.380, unless the context requires
6 otherwise:

7 (1) "Capitol building" means the Capitol, the State Office Building, the
8 State Library Building, the Labor and Industries Building, the State Trans-
9 portation Building, the Agriculture Building or the Public Service Building
10 and includes any new buildings which may be constructed on the same
11 grounds as an addition to the group of buildings listed in this subsection.

12 (2) "Court facility" means a courthouse or that portion of any other
13 building occupied by a circuit court, the Court of Appeals, the Supreme
14 Court or the Oregon Tax Court or occupied by personnel related to the op-
15 erations of those courts, or in which activities related to the operations of
16 those courts take place.

17 (3) "Judge" means a judge of a circuit court, the Court of Appeals, the
18 Supreme Court, the Oregon Tax Court, a municipal court, a probate court
19 or a juvenile court or a justice of the peace.

20 (4) "Judicial district" means a circuit court district established under
21 ORS 3.012 or a justice of the peace district established under ORS 51.020.

22 (5) "Juvenile court" has the meaning given that term in ORS 419A.004.

23 (6) "Loaded firearm" means:

24 (a) A breech-loading firearm in which there is an unexpended cartridge
25 or shell in or attached to the firearm including but not limited to, in a
26 chamber, magazine or clip which is attached to the firearm.

27 (b) A muzzle-loading firearm which is capped or primed and has a powder
28 charge and ball, shot or projectile in the barrel or cylinder.

29 (7) "Local court facility" means the portion of a building in which a jus-
30 tice court, a municipal court, a probate court or a juvenile court conducts
31 business, during the hours in which the court operates.

(8) “Probate court” has the meaning given that term in ORS 111.005.

(9) “Public building” means:

(a) A hospital, a capitol building, a public or private school, as defined in ORS 339.315, a college or university, a city hall or the residence of any state official elected by the state at large, and the grounds adjacent to each such building[.];

(b) The passenger terminal of a commercial service airport; or

(c) [*The term also includes*] That portion of any other building occupied by an agency of the state or a municipal corporation, as defined in ORS 297.405, other than a court facility.

(10) “Weapon” means:

(a) A firearm;

(b) Any dirk, dagger, ice pick, slingshot, metal knuckles or any similar instrument or a knife, other than an ordinary pocketknife with a blade less than four inches in length, the use of which could inflict injury upon a person or property;

(c) Mace, tear gas, pepper mace or any similar deleterious agent as defined in ORS 163.211;

(d) An electrical stun gun or any similar instrument;

(e) A tear gas weapon as defined in ORS 163.211;

(f) A club, bat, baton, billy club, bludgeon, knobkerrie, nunchaku, nightstick, truncheon or any similar instrument, the use of which could inflict injury upon a person or property; or

(g) A dangerous or deadly weapon as those terms are defined in ORS 161.015.

SECTION 18. ORS 825.402 is amended to read:

825.402. (1) Except as provided in subsection (4) of this section, all motor carriers that are domiciled in Oregon and that receive a certificate or permit from the Department of Transportation for the first time on or after July 1, 1990, shall participate in the program established under ORS 825.400.

(2) A motor carrier required by subsection (1) of this section to partic-

ipate in the program must do so within 90 days of the date on which it receives a certificate or permit from the department.

(3) In addition to motor carriers required to participate in the program established under ORS 825.400, the department may require participation by any motor carrier that:

(a) Has underpaid its tax obligation for the use of the highways by 15 percent or more;

(b) Exceeds by more than 15 percent, in a one-year period, the industry average for out-of-service violations for vehicle inspection or for accidents per mile; or

(c) Receives, in a one-year period, two or more citations for being 10,000 pounds or more overweight.

(4) Subsection (1) of this section does not apply to a carrier receiving a certificate or permit for the first time on or after July 1, 1990, if the carrier is a successor in interest to a carrier that held a certificate or permit prior to that date.

(5) Rules adopted by the department under ORS 825.400 shall require each motor carrier participating in the program to have at least one person having a substantial interest or control, directly or indirectly, in or over the operations conducted or to be conducted under the certificate or permit issued to the motor carrier participate in the program. No rule shall require the participation of a motor carrier more than one time except for motor carriers required to participate under subsection (3) of this section.

(6) Rules adopted by the department under ORS 825.400 shall require each motor carrier participating in the program to attend at least eight hours of classroom instruction. The instruction may be provided in person or by an interactive, instructor-led webinar.

SECTION 19. ORS 825.400 is amended to read:

825.400. (1) The Department of Transportation shall adopt rules to establish a program for the education of motor carriers that covers, at a minimum, safety, weight mile tax and [*insurance*] **registration** and size and weight

1 regulations administered by the department.

2 **(2) The department may appoint agents to carry out the program**
3 **established under this section.**

4 **(3) Agents shall carry out the program in accordance with rules**
5 **prescribed by the department and shall charge and collect the program**
6 **fees prescribed by law. In addition to the program fee, the department**
7 **may authorize any agent other than a department employee to charge**
8 **a service fee of \$2.**

9 **SECTION 20.** ORS 825.404 is amended to read:

10 825.404. The Department of Transportation shall assess a fee to defray the
11 cost of the program **established under ORS 825.400**, but the fee [*shall*] **may**
12 not exceed [*\$60*] **\$200**.

13 **SECTION 21.** ORS 757.357 is amended to read:

14 757.357. (1) As used in this section:

15 (a) “Electric company” has the meaning given that term in ORS 757.600.

16 (b) “Transportation electrification” means:

17 (A) The use of electricity from external sources to provide power to all
18 or part of a vehicle;

19 (B) Programs related to developing the use of electricity for the purpose
20 described in subparagraph (A) of this paragraph; and

21 (C) Infrastructure investments related to developing the use of electricity
22 for the purpose described in subparagraph (A) of this paragraph.

23 (c) “Vehicle” means a vehicle, vessel, train, boat or any other equipment
24 that is mobile.

25 (2) The Legislative Assembly finds and declares that:

26 (a) Transportation electrification is necessary to reduce petroleum use,
27 achieve optimum levels of energy efficiency and carbon reduction, meet fed-
28 eral and state air quality standards, meet this state’s greenhouse gas emis-
29 sions reduction goals described in ORS 468A.205 and improve the public
30 health and safety;

31 (b) Widespread transportation electrification requires that electric com-

panies increase access to the use of electricity as a transportation fuel;

(c) Widespread transportation electrification requires that electric companies increase access to the use of electricity as a transportation fuel in low and moderate income communities;

(d) Widespread transportation electrification should stimulate innovation and competition, provide consumers with increased options in the use of charging equipment and in procuring services from suppliers of electricity, attract private capital investments and create high quality jobs in this state;

(e) Transportation electrification and the purchase and use of electric vehicles should assist in managing the electrical grid, integrating generation from renewable energy resources and improving electric system efficiency and operational flexibility, including the ability of an electric company to integrate variable generating resources;

(f) Deploying transportation electrification and electric vehicles creates the opportunity for an electric company to propose, to the Public Utility Commission, that a net benefit for the customers of the electric company is attainable; and

(g) Charging electric vehicles in a manner that provides benefits to electrical grid management affords fuel cost savings for vehicle drivers.

(3) The Public Utility Commission shall direct each electric company to file applications, in a form and manner prescribed by the commission, for programs to accelerate transportation electrification. A program proposed by an electric company may include prudent investments in or customer rebates for electric vehicle charging and related infrastructure.

(4) When considering a transportation electrification program and determining cost recovery for investments and other expenditures related to a program proposed by an electric company under subsection (3) of this section, the commission shall consider whether the investments and other expenditures:

(a) Are within the service territory of the electric company;

(b) Are prudent as determined by the commission;

1 (c) Are reasonably expected to be used and useful as determined by the
2 commission;

3 (d) Are reasonably expected to enable the electric company to support the
4 electric company's electrical system;

5 (e) Are reasonably expected to improve the electric company's electrical
6 system efficiency and operational flexibility, including the ability of the
7 electric company to integrate variable generating resources; and

8 (f) Are reasonably expected to stimulate innovation, competition and
9 customer choice in electric vehicle charging and related infrastructure and
10 services.

11 (5)(a) Tariff schedules and rates allowed pursuant to subsection (3) of this
12 section:

13 (A) May allow a return of and a return on an investment made by an
14 electric company under subsection (3) of this section; and

15 (B) Shall be recovered from all customers of an electric company in a
16 manner that is similar to the recovery of distribution system investments.

17 (b) A return on investment allowed under this subsection may be earned
18 for a period of time that does not exceed the depreciation schedule of the
19 investment approved by the commission. When an electric company's invest-
20 ment is fully depreciated, the commission may authorize the electric company
21 to donate the electric vehicle charging infrastructure to the owner of the
22 property on which the infrastructure is located.

23 (6) For purposes of ORS 757.355, electric vehicle charging infrastructure
24 provides utility service to the customers of an electric company.

25 (7) In authorizing programs described in subsection (3) of this section, the
26 commission shall review data concerning current and future adoption of
27 electric vehicles and utilization of electric vehicle charging infrastructure.
28 If market barriers unrelated to the investment made by an electric company
29 prevent electric vehicles from adequately utilizing available electric vehicle
30 charging infrastructure, the commission may not permit additional invest-
31 ments in transportation electrification without a reasonable showing that

the investments would not result in long-term stranded costs recoverable from the customers of electric companies.

SECTION 22. Section 23 of this 2021 Act and ORS 757.357 are added to and made a part of ORS chapter 757.

SECTION 23. (1) As used in this section, “natural gas utility” means a natural gas utility regulated by the Public Utility Commission under ORS chapter 757.

(2) The commission may allow a natural gas utility to recover costs from natural gas customers for prudent investments in or expenses related to infrastructure measures that support the adoption and service of alternative forms of transportation vehicles if the investments or expenses are consistent with and meet the requirements of subsection (3) of this section. An investment or expense by a natural gas utility may include an investment in or an expense related to infrastructure behind the customer meter.

(3) An investment in or expense related to infrastructure measures that support the adoption and service of alternative forms of transportation vehicles is a utility service and a benefit to retail natural gas customers if the investment or expense can be anticipated to:

(a) Support the adoption of alternative vehicles that are powered by compressed natural gas or hydrogen;

(b) Support reductions of transportation sector greenhouse gas emissions over time; and

(c) Benefit the natural gas utility system. Benefits may include, but not need be limited to:

(A) Distribution or transmission management benefits;

(B) System efficiencies or other economic values inuring to the benefit of retail natural gas customers over the long term; or

(C) Revenues to natural gas utilities from fueling alternative forms of transportation vehicles to offset natural gas utilities’ fixed costs that may otherwise be charged to retail natural gas customers.

SECTION 24. ORS 184.657 is amended to read:

184.657. (1) The Oregon Transportation Commission shall develop a set of uniform standards, in coordination with counties and cities, for the consistent description and reporting of the condition of the transportation infrastructure owned by the state, counties and cities. The infrastructure described must include pavement and bridges.

(2) By February 1 of each odd-numbered year, every city and county shall submit a report covering the condition of its transportation infrastructure.

(3) The commission shall periodically review the condition of the transportation infrastructure owned by the state and the reports submitted under this section. The commission shall post the reports and the commission's review of the reports on the website described in ORS 184.661.

(4) Notwithstanding ORS 366.762 to 366.768 or 366.785 to 366.820, any city or county failing to file a report under this section may not receive any payments from the State Highway Fund until the report is filed.

(5) Not later than [*April*] **June** 1 of each odd-numbered year, the commission shall submit a report about the state of the transportation infrastructure of Oregon, including the transportation infrastructure of cities and counties, to:

(a) The Legislative Assembly in the manner provided by ORS 192.245; and

(b) The Joint Committee on Transportation established under ORS 171.858.

SECTION 25. ORS 824.022 is amended to read:

824.022. (1) ORS 824.020 to 824.042, 824.050 to 824.110 and 824.200 to 824.256 apply to:

(a) The transportation of passengers and property.

(b) The receiving, delivering, switching, storing, elevation and transfer in transit, ventilation, refrigeration [*or icing,*] and handling of such property, and all charges connected therewith.

(c) All railroad, terminal, car, tank line, freight and freight line companies.

(d) All associations of persons, whether incorporated or otherwise, that do business as common or for hire carriers upon or over any line of railroad within this state.

(e) Any common or for hire carrier engaged in the transportation of passengers or property wholly by rail or partly by rail and partly by water.

(2) ORS 824.020 to 824.042 do not apply to logging or other private railroads not doing business as common carriers.

(3) ORS 824.020 to 824.042 and 824.050 to 824.110 do not apply to corporations, companies, individuals, associations of individuals and their lessees, trustees or receivers that:

(a) Are primarily involved in a business enterprise other than rail transportation;

(b) Conduct rail operations 50 percent or more of which are for the purpose of providing transportation to the primary business enterprise;

(c) Operate on less than 10 miles of track; and

(d) Provide for hire rail transportation service to no more than five persons.

SECTION 26. ORS 824.026 is amended to read:

824.026. (1) The Department of Transportation shall employ at least three full-time railroad inspectors to assist the department as the department may prescribe in:

(a) Inquiring into any neglect or violation of and enforcing any law of this state or any law or ordinance of any municipality thereof relating to railroad safety;

(b) Inquiring into any neglect or violation of and enforcing any rule, regulation, requirement, order, term or condition issued by the department relating to railroad safety; and

(c) Conducting any investigative, surveillance and enforcement activities that the department is authorized to conduct under federal law in connection with any federal law, rule, regulation, order or standard relating to railroad safety.

(2) A railroad inspector may [*stop and detain*] **inspect** any train and the contents thereof that the railroad inspector reasonably believes is being operated in violation of any law, ordinance, rule, regulation, requirement, order, standard, term or condition referred to in subsection (1) of this section.

SECTION 27. ORS 824.060 is amended to read:

824.060. (1) Every locomotive [*and caboose*] of every railroad operating in this state shall be equipped with a first aid kit.

(2) All locomotives shall be equipped with fire extinguishers meeting the following requirements:

(a) Each locomotive shall have at least one portable fire extinguisher.

(b) Fire extinguishers may be of a foam, dry chemical or carbon dioxide type.

(c) The fire extinguishers in each locomotive shall provide a minimum capacity of one and one-quarter gallons or five pounds. More than one fire extinguisher may be used to comply with the minimum capacity requirement under this paragraph.

(d) Fire extinguishers shall be placed in readily accessible locations.

(e) Fire extinguishers shall be maintained in working order.

(3) A railroad may apply for a temporary exemption from the provisions of subsection (2) of this section. The Department of Transportation will consider the application of the railroad for a temporary exemption when accompanied by a full statement of the conditions existing and the reasons for the exemption. Any exemption so granted will be limited to a stated period of time.

SECTION 28. ORS 824.088 is amended to read:

824.088. (1) Each railroad that gives notice to the United States Department of Transportation of an incident that occurs during the course of transporting hazardous materials as defined by federal regulations shall also give notice of the incident to the Director of the Office of Emergency Management.

(2) As soon as reasonably practicable, each railroad shall notify the director by telephone or similar means of communication of any derailment or fire involving or affecting hazardous material.

(3) To facilitate expedited and accurate notice to the director under this section, each train transporting hazardous materials in this state shall be equipped with at least two radio transmitter-receivers in good working order. In addition, [18 months after October 4, 1977,] trains over 2,000 feet in length that are transporting hazardous materials shall be equipped with a radio handset in good working order capable of communicating with the radio transmitter-receivers. If the equipment required under this section does not function while the train is en route, the train may proceed to the next point of crew change where the equipment shall be replaced or repaired.

SECTION 29. ORS 824.992 is amended to read:

824.992. (1) Violation of ORS 824.062 is a Class D violation.

(2) Violation of ORS 824.064 is a Class A misdemeanor.

(3) Violation of ORS 824.082 (1), 824.084 or 824.088 by a railroad is a Class A violation.

(4) Violation of ORS 824.082 (2) is a Class A violation.

(5) As used in subsection (3) of this section, "railroad" means a railroad as defined by ORS 824.020 and 824.022.

(6) Subject to ORS 153.022, violation of [ORS 824.104 (1)] **ORS 824.060 (2)**, 824.106 or 824.108 or any rule promulgated pursuant thereto is a Class A violation.

(7) A person is subject to the penalties under subsection (8) of this section if the person knowingly:

(a) Transports by railroad any hazardous waste listed under ORS 466.005 or rules adopted thereunder to a facility that does not have appropriate authority to receive the waste under ORS 466.005 to 466.385 and 466.992.

(b) Disposes of any hazardous waste listed under ORS 466.005 or rules adopted thereunder without appropriate authority under ORS 466.005 to 466.385 and 466.992.

(c) Materially violates any terms of permit or authority issued to the person under ORS 466.005 to 466.385 and 466.992 in the transporting or disposing of hazardous waste.

(d) Makes any false material statement or representation in any application, label, manifest, record, report, permit or other document filed, maintained or used for purposes of compliance with requirements under ORS 824.050 to 824.110 for the safe transportation of hazardous wastes.

(e) Violates any rules adopted by the Department of Transportation concerning the transportation of hazardous wastes.

(8) Subject to ORS 153.022, violation of subsection (7) of this section is a Class B misdemeanor. Each day's violation is a separate offense.

(9) Violation of ORS 824.300 or 824.302 is a Class D violation.

(10) Violation of ORS 824.304 is a Class A violation.

(11) Violation of ORS 824.306 by any railroad company or officer or agent thereof, or any other person is a Class D violation. Each day's violation is a separate offense.

SECTION 30. ORS 803.102 is amended to read:

803.102. (1) As used in this section:

(a) "Transferee" means any person to whom ownership of a motor vehicle is transferred by purchase, gift or any other means other than by creation of a security interest and any person who, as an agent, signs an odometer disclosure statement for the transferee.

(b) "Transferor" means any person who transfers ownership of a motor vehicle by sale, gift or any means other than by creation of a security interest and any person who, as an agent, signs an odometer disclosure statement for the transferor.

(2) Except as otherwise provided in this section, upon transfer of any interest in a motor vehicle, an odometer disclosure statement shall be made by the transferor to the transferee. The disclosure shall be in a form that complies with the provisions of ORS 803.120 and shall contain the information required under ORS 803.122.

(3) If a transfer requiring a disclosure statement involves a leased vehicle, the lessor shall notify the lessee that the lessee is required to provide odometer disclosure. The lessee shall furnish the lessor with a form that complies with the requirements of ORS 803.120 and shall provide the information required by ORS 803.122 except that for purposes of the required information, the lessee shall be considered the transferor, the lessor shall be considered the transferee and the date shall be the date of the disclosure statement.

(4) Where an interest in a vehicle is transferred by operation of law, the Department of Transportation shall determine by rule whether an odometer disclosure statement is required and if so, who is required to provide it.

[(5) The odometer disclosure requirements of this section do not apply upon transfer of an interest where the transfer is due solely to the creation, release or assignment of a security interest, or upon transfer of an interest in any of the following:]

[(a) A vehicle with a gross vehicle weight rating of more than 16,000 pounds.]

[(b) A vehicle that is not self-propelled.]

[(c) A vehicle that is at least 10 years old.]

[(d) A vehicle that is sold directly by the manufacturer to any agency of the United States in conformity with contractual specifications.]

[(e) A vehicle that is exempted from the requirement by rules of the department.]

(5) The department, by rule, may exempt vehicles from the odometer disclosure requirements of this section in accordance with federal laws, rules or regulations pertaining to odometer disclosure requirements.

(6) A person may provide an odometer reading to the department, in the manner prescribed by the department by rule, for a vehicle that is 10 years old or older.

SECTION 31. The amendments to ORS 803.102 by section 30 of this

2021 Act become operative on January 1, 2022.

SECTION 32. ORS 803.210 is amended to read:

803.210. (1) The Department of Transportation shall not issue title for a vehicle described in subsection (2) of this section unless:

(a) An inspection of the vehicle identification number or numbers of the vehicle is performed in accordance with ORS 803.212; and

(b) The fee established under ORS 803.215 is paid to the department for the inspection.

(2) Except as provided in subsection (3) of this section, the requirements of this section apply to all of the following:

(a) A vehicle from another jurisdiction.

(b) Any assembled or reconstructed vehicle.

(c) Any vehicle if the certificate of title has been or is required to be submitted to the department, or a person is required to report to the department, under ORS 819.010, 819.012, 819.014 or 819.030.

(d) Any vehicle if the department has received notice that the vehicle has been or will be wrecked, dismantled, disassembled or substantially altered under ORS 819.010 or 822.135.

(e) Replicas.

(f) Other than a racing activity vehicle as defined in ORS 801.404, any vehicle the department has reason to believe was not certified by the original manufacturer as conforming to federal vehicle standards.

(3) The requirements of this section do not apply to the following vehicles if the person shown as the owner on an out-of-state title for the vehicle applies for an Oregon title in that person's name:

(a) A rental truck, rental truck tractor or rental trailer that is registered in Oregon under an interstate agreement that provides that a portion of the owner's fleet is to be registered in each state in which the fleet operates.

(b) A trailer or semitrailer that has permanent registration.

(4) The requirement to inspect a vehicle identification number or numbers of the vehicle under subsection (1) of this section does not

1 **apply to park model recreation vehicles, as defined in ORS 803.036.**

2 **SECTION 33.** ORS 807.072 is amended to read:

3 807.072. (1) The Department of Transportation, by rule, may waive any
4 examination, test or demonstration required under ORS 807.065 (1)(b) or
5 807.070 (2) or (3) if the department receives satisfactory proof that the person
6 required to take the examination, test or demonstration has passed an ex-
7 amination, test or demonstration approved by the department that:

8 (a) Is given in conjunction with a traffic safety education course certified
9 by the department under ORS 336.802;

10 (b) Is given in conjunction with a motorcycle rider education course es-
11 tablished under ORS 802.320;

12 (c) Is given in conjunction with a course conducted by a commercial
13 driver training school certified by the department under ORS 822.515; or

14 (d) Is given in conjunction with an application for a special limited vision
15 condition learner's permit under ORS 807.359.

16 (2) The department, by rule, may waive the actual demonstration required
17 under ORS 807.070 (3) for a person who is applying for a commercial driver
18 license or a Class C license if the person holds a valid out-of-state license
19 or applies for an Oregon license within one year of the expiration of a valid
20 out-of-state license. A demonstration may be waived under this subsection
21 only if the person has applied for the same driving privileges as those
22 granted under the person's out-of-state license or for privileges granted by
23 a lower class of license.

24 (3) The department may waive the actual demonstration required under
25 ORS 807.070 for a person who is applying for a commercial driver license,
26 an endorsement related to a commercial driver license or the removal of a
27 restriction from a commercial driver license:

28 (a) If the person has been certified, as defined by rule, under ORS 807.080
29 or a similar statute of another jurisdiction as competent to safely exercise
30 the driving privileges granted by a Class A commercial driver license, a
31 Class B commercial driver license or a Class C commercial driver license;

1 or

2 (b) Under circumstances, established by the department by rule, that es-
3 tablish the person's ability to drive without an actual demonstration.

4 (4) The department may issue a Class A farm endorsement without re-
5 quiring additional tests to a person who has a Class C driver license if a
6 farm employer or a self-employed farmer certifies to the department that the
7 person is experienced in driving a vehicle that may be driven only by persons
8 who have a Class A commercial driver license and the person's two-part
9 driving record does not show either a traffic accident within two years of
10 the date of application for the endorsement or a conviction for one of the
11 following traffic crimes within five years of the date of application for the
12 endorsement:

13 (a) Reckless driving, as defined in ORS 811.140.

14 (b) Driving while under the influence of intoxicants, as defined in ORS
15 813.010.

16 (c) Failure to perform the duties of a driver involved in a collision, as
17 described in ORS 811.700 or 811.705.

18 (d) Criminal driving while suspended or revoked, as defined in ORS
19 811.182.

20 (e) Fleeing or attempting to elude a police officer, as defined in ORS
21 811.540.

22 (5) The department may issue a Class B farm endorsement without re-
23 quiring additional tests to a person who has a Class C driver license if a
24 farm employer or a self-employed farmer certifies to the department that the
25 person is experienced in driving a vehicle that may be driven only by persons
26 who have a Class B commercial driver license and the person's two-part
27 driving record does not show either a conviction for a traffic crime specified
28 in subsection (4) of this section within five years of the date of application
29 for the endorsement or a traffic accident within two years of the date of
30 application for the endorsement.

31 (6) The department by rule may establish other circumstances under

which a farm endorsement may be issued without an actual demonstration. The authority granted by this subsection includes, but is not limited to, authority to adopt rules specifying circumstances under which the endorsement may be granted to a person despite the appearance of traffic accidents on the person's record.

(7) The department by rule may waive the test required under ORS 807.070 (2) for a person who applies for a motorcycle endorsement if the person:

(a) Holds a valid out-of-state driver license that authorizes the person to operate a motorcycle; *[or]*

(b) Applies for a motorcycle endorsement within one year after the expiration date of a valid out-of-state driver license that authorizes the person to operate a motorcycle~~].~~; **or**

(c) Completes a motorcycle rider education course outside of this state that is approved by the department by rule:

(A) While temporarily residing outside of this state; and

(B) The person is domiciled in this state as described in ORS 803.355 or is a resident as described in ORS 807.062.

(8) The department by rule may waive the actual demonstration required under ORS 807.070 (3) for a person who is applying for a restricted motorcycle endorsement that only authorizes the person to operate a motorcycle with more than two wheels.

(9) The department, by rule, may waive the test or demonstration required under ORS 807.070 for a person who applies for a Class C driver license if the person holds a valid out-of-state driver license that authorizes the person to operate a motor vehicle.

SECTION 34. ORS 320.400 is amended to read:

320.400. As used in ORS 320.400 to 320.490 and 803.203:

(1)(a) "Bicycle" means:

(A) A vehicle that is designed to be operated on the ground on wheels **for the transportation of humans** and is propelled exclusively by human power; or

(B) An electric assisted bicycle as defined in ORS 801.258.

(b) “Bicycle” does not include:

(A) Carts;

(B) Durable medical equipment;

(C) In-line skates;

(D) Roller skates;

(E) Skateboards;

(F) Stand-up scooters;

(G) Strollers designed for the transportation of children;

(H) Trailer cycles or other bicycle attachments; or

(I) Wagons.

(2)(a) “Retail sales price” means the total price paid at retail for a taxable vehicle, exclusive of the amount of any excise, privilege or use tax, to a seller by a purchaser of the taxable vehicle.

(b) “Retail sales price” does not include the retail value of:

(A) Modifications to a taxable vehicle that are necessary for a person with a disability to enter or drive or to otherwise operate or use the vehicle.

(B) Customized industrial modifications to the chassis of a truck that has a gross vehicle weight rating of at least 10,000 pounds and not more than 26,000 pounds.

(3) “Seller” means:

(a) With respect to the privilege tax imposed under ORS 320.405 and the use tax imposed under ORS 320.410, a vehicle dealer.

(b) With respect to the excise tax imposed under ORS 320.415, a person engaged in whole or in part in the business of selling bicycles.

(4) “Taxable bicycle” means a new bicycle that has a retail sales price of \$200 or more.

(5) “Taxable motor vehicle” means a vehicle that:

(a) Has a gross vehicle weight rating of 26,000 pounds or less;

(b)(A) If equipped with an odometer, has 7,500 miles or less on the odometer; or

(B) If not equipped with an odometer, has a manufacturer's certificate of origin or a manufacturer's statement of origin; and

(c) Is:

(A) A vehicle as defined in ORS 744.850, other than an all-terrain vehicle or a trailer;

(B) A camper as defined in ORS 801.180;

(C) A commercial bus as defined in ORS 801.200;

(D) A commercial motor vehicle as defined in ORS 801.208;

(E) A commercial vehicle as defined in ORS 801.210;

(F) A fixed load vehicle as defined in ORS 801.285;

(G) A moped as defined in ORS 801.345;

(H) A motor home as defined in ORS 801.350;

(I) A motor truck as defined in ORS 801.355;

(J) A tank vehicle as defined in ORS 801.522;

(K) A trailer as defined in ORS 801.560 that is required to be registered in this state;

(L) A truck tractor as defined in ORS 801.575; or

(M) A worker transport bus as defined in ORS 801.610.

(6) "Taxable vehicle" means a taxable bicycle or a taxable motor vehicle.

(7) "Transportation project taxes" means the privilege tax imposed under ORS 320.405, the use tax imposed under ORS 320.410 and the excise tax imposed under ORS 320.415.

(8)(a) "Vehicle dealer" means:

(A) A person engaged in business in this state that is required to obtain a vehicle dealer certificate under ORS 822.005; and

(B) A person engaged in business in another state that would be subject to ORS 822.005 if the person engaged in business in this state.

(b) Notwithstanding paragraph (a) of this subsection, a person is not a vehicle dealer for purposes of ORS 320.400 to 320.490 and 803.203 to the extent the person:

(A) Conducts an event that lasts less than seven consecutive days, for

which the public is charged admission and at which otherwise taxable motor vehicles are sold at auction; or

(B) Sells an otherwise taxable motor vehicle at auction at an event described in this paragraph.

SECTION 35. The amendments to ORS 320.400 by section 34 of this 2021 Act apply to taxable bicycles sold before, on or after the effective date of this 2021 Act.

SECTION 36. ORS 319.020, as amended by section 4, chapter 700, Oregon Laws 2015, and section 41, chapter 750, Oregon Laws 2017, is amended to read:

319.020. (1) Subject to subsections (2) to (4) of this section, in addition to the taxes otherwise provided for by law, every dealer engaging in the dealer's own name, or in the name of others, in the first sale, use or distribution of motor vehicle fuel or aircraft fuel or withdrawal of motor vehicle fuel or aircraft fuel for sale, use or distribution within areas in this state within which the state lacks the power to tax the sale, use or distribution of motor vehicle fuel or aircraft fuel, shall:

(a) Not later than the 25th day of each calendar month, render a statement to the Department of Transportation of all motor vehicle fuel or aircraft fuel sold, used, distributed or so withdrawn by the dealer in the State of Oregon as well as all such fuel sold, used or distributed in this state by a purchaser thereof upon which sale, use or distribution the dealer has assumed liability for the applicable license tax during the preceding calendar month. The dealer shall render the statement to the department in the manner provided by the department by rule.

(b) Except as provided in ORS 319.270, pay a license tax computed on the basis of 34 cents per gallon on the first sale, use or distribution of such motor vehicle fuel or aircraft fuel so sold, used, distributed or withdrawn as shown by such statement in the manner and within the time provided in ORS 319.010 to 319.430.

(2) When aircraft fuel is sold, used or distributed by a dealer, the license

1 tax shall be computed on the basis of *[nine]* **11** cents per gallon of fuel so
2 sold, used or distributed, except that when aircraft fuel usable in aircraft
3 operated by turbine engines (turbo-prop or jet) is sold, used or distributed,
4 the tax rate shall be *[one cent]* **three cents** per gallon.

5 (3) In lieu of claiming refund of the tax paid on motor vehicle fuel con-
6 sumed by such dealer in nonhighway use as provided in ORS 319.280, 319.290
7 and 319.320, or of any prior erroneous payment of license tax made to the
8 state by such dealer, the dealer may show such motor vehicle fuel as a credit
9 or deduction on the monthly statement and payment of tax.

10 (4) The license tax computed on the basis of the sale, use, distribution or
11 withdrawal of motor vehicle or aircraft fuel may not be imposed wherever
12 such tax is prohibited by the Constitution or laws of the United States with
13 respect to such tax.

14 **SECTION 37.** ORS 319.330, as amended by section 5, chapter 700, Oregon
15 Laws 2015, is amended to read:

16 319.330. (1) Whenever any statement and invoices are presented to the
17 Department of Transportation showing that motor vehicle fuel or aircraft
18 fuel has been purchased and used in operating aircraft engines and upon
19 which the full tax for motor vehicle fuel has been paid, the department shall
20 refund the tax paid, but only after deducting from the tax paid *[nine]* **11** cents
21 for each gallon of such fuel so purchased and used, except that when such
22 fuel is used in operating aircraft turbine engines (turbo-prop or jet) the de-
23 duction shall be *[one cent]* **three cents** for each gallon. No deduction pro-
24 vided under this subsection shall be made on claims presented by the United
25 States or on claims presented where a satisfactory showing has been made
26 to the department that such aircraft fuel has been used solely in aircraft
27 operations from a point within the State of Oregon directly to a point not
28 within any state of the United States. The amount so deducted shall be paid
29 on warrant of the Oregon Department of Administrative Services to the State
30 Treasurer, who shall credit the amount to the State Aviation Account for the
31 purpose of carrying out the provisions of the state aviation law. Moneys

credited to the account under this section are continuously appropriated to the Oregon Department of Aviation.

(2) If satisfactory evidence is presented to the Department of Transportation showing that aircraft fuel upon which the tax has been paid has been purchased and used solely in aircraft operations from a point within the State of Oregon directly to a point not within any state of the United States, the department shall refund the tax paid.

SECTION 38. (1) **The amendments to ORS 319.020 by section 36 of this 2021 Act apply to aircraft fuel sold, used or distributed on or after January 1, 2022.**

(2) **The amendments to ORS 319.330 by section 37 of this 2021 Act apply to aircraft fuel sold, used or distributed on or after January 1, 2022.**

SECTION 39. Section 7, chapter 700, Oregon Laws 2015, as amended by section 80a, chapter 750, Oregon Laws 2017, section 1, chapter 485, Oregon Laws 2019, and section 26, chapter 491, Oregon Laws 2019, is amended to read:

Sec. 7. (1) The following amounts shall be distributed in the manner prescribed in this section:

(a) Any amount of tax on aircraft fuel usable in aircraft operated by turbine engines that is computed on a basis in excess of one cent per gallon and any amount of tax on all other aircraft fuel that is computed on a basis in excess of nine cents per gallon, under ORS 319.020 (2); and

(b) Any amount of tax on aircraft fuel usable in aircraft operated by turbine engines in excess of one cent per gallon and any amount of tax on all other aircraft fuel in excess of nine cents per gallon, that is deducted before the refunding of tax under ORS 319.330 (1).

(2)(a) Applications for distributions under [subsections (5) and (6)] **subsection (5)** of this section may not be approved unless the applicant demonstrates a commitment to contribute at least five percent of the costs of the project to which the application relates. The Oregon Department of Aviation

shall adopt rules for purposes of this paragraph.

(b) The department may adopt rules that:

(A) Set higher minimum contribution commitment requirements; or

(B) Establish maximum grant amounts.

(3)(a) The State Aviation Board shall establish a review committee composed of one member from each of the area commissions on transportation chartered by the Oregon Transportation Commission.

(b) The review committee shall meet as necessary to review applications for distributions of amounts pursuant to this section. In reviewing applications, the review committee shall consider:

(A) Whether a proposed project:

(i) Reduces transportation costs for Oregon businesses or improves access to jobs and sources of labor in this state;

(ii) Results in an economic benefit to this state;

(iii) Connects elements of Oregon's aviation system in a way that will measurably improve utilization and efficiency of the system;

(iv) Is ready for construction or implementation; and

(v) Has a useful life expectancy that offers maximum benefit to this state;

and

(B) How much of the cost of the proposed project can be borne by the applicant from sources other than Oregon Department of Aviation funds or the Connect Oregon Fund.

(c) The review committee shall recommend applications to the State Aviation Board for approval.

(4)(a) Five percent of the amounts described in subsection (1) of this section are appropriated to the Oregon Department of Aviation for the costs of the department and the State Aviation Board in administering this section.

(b) The remaining 95 percent of the amounts described in subsection (1) of this section shall be distributed pursuant to subsections (5) *[to (7)]* **and (6)** of this section.

(5)(a) *[Fifty]* **Seventy-five** percent of the amounts described in subsection

(4)(b) of this section shall be *[prioritized in the following order and]* distributed for the following purposes:

[(a)] **(A)** *[First,]* To assist airports in Oregon with match requirements for Federal Aviation Administration Airport Improvement Program grants.

[(b)] **(B)** *[Second,]* To make grants for emergency preparedness and infrastructure projects, in accordance with the Oregon Resilience Plan or the Oregon Aviation Plan.

[(c)] **(C)** *[Third,]* To make grants for:

[(A)] **(i)** Services critical or essential to aviation, including, but not limited to, fuel, sewer, water and weather equipment;

[(B)] **(ii)** Aviation-related business development, including, but not limited to, hangars, parking for business aircraft and related facilities; or

[(C)] **(iii)** Airport development for local economic benefit, including, but not limited to, signs and marketing.

(D)(i) To assist commercial air service to rural Oregon.

(ii) The Oregon Department of Aviation may adopt a definition of “rural Oregon” for purposes of this subparagraph.

(b) The State Aviation Board may establish by rule priorities for the distributions made pursuant to this subsection.

[(6) *Twenty-five percent of the amounts described in subsection (4)(b) of this section shall be distributed for the purpose of assisting commercial air service to rural Oregon.*]

[(7)] **(6)** Twenty-five percent of the amounts described in subsection (4)(b) of this section shall be distributed to state-owned airports for the purposes of:

(a) Safety improvements recommended by the State Aviation Board and local community airports.

(b) Infrastructure projects at public use airports.

[(8)(a)] **(7)(a) Not later than September 15 of each year, the State Aviation Board shall submit the reports described in paragraph (b) of this subsection, in the manner provided in ORS 192.245, to the interim**

committees, as applicable, of the Legislative Assembly related to air transportation.

(b) [The State Aviation Board shall submit reports, in the manner provided in ORS 192.245 and paragraph (b) of this subsection, that] **The reports required under this subsection shall** describe in detail the projects for which applications have been submitted and approved, the airports affected, the names of the applicants and the persons who will perform the work proposed in the applications, the progress of projects for which applications have been approved and any other information the board considers necessary for a comprehensive analysis of the implementation of this section.

[(b) The reports described in paragraph (a) of this subsection shall be submitted:]

[(A) Not later than February 10 of each year to the committees of the Legislative Assembly related to air transportation; and]

[(B) Not later than September 30 of each year to the interim committees of the Legislative Assembly related to air transportation.]

SECTION 40. The amendments to section 7, chapter 700, Oregon Laws 2015, by section 39 of this 2021 Act apply to applications for distributions submitted on or after the effective date of this 2021 Act.

SECTION 41. Sections 6 and 8, chapter 700, Oregon Laws 2015, are repealed.

SECTION 42. ORS 807.175 is amended to read:

807.175. (1) The Department of Transportation may not issue a motorcycle endorsement to a person unless the person shows to the satisfaction of the department that the person has successfully completed a motorcycle rider education course established by the department under ORS 802.320. This requirement is in addition to any other requirement for the endorsement.

(2) Subsection (1) of this section does not apply to a person applying for issuance of a motorcycle endorsement under ORS 807.170 who:

(a) Currently holds a motorcycle endorsement issued by another state; or

(b) Is applying for a restricted motorcycle endorsement that only author-

izes the person to operate a motorcycle with more than two wheels.

(3) Subsection (1) of this section does not apply to a person applying for issuance of a motorcycle endorsement under ORS 807.170 who:

(a) Is temporarily residing outside of this state;

(b) Is domiciled in this state as described in ORS 803.355 or is a resident as described in ORS 807.062; and

(c) Completes a motorcycle rider education course outside of this state that is approved by the department by rule.

SECTION 43. ORS 815.140 is amended to read:

815.140. (1) A person commits the offense of failure to use vehicle traction tires or chains if the person drives or moves or owns and causes or knowingly permits to be driven or moved any motor vehicle or trailer on any highway if the highway is posted showing conditions that require vehicle traction tires or chains and the vehicle is not equipped with vehicle traction tires or chains that are required for the posted conditions.

(2) Traction tires or chains that are referred to in this section are those established by rule under the authority granted under ORS 815.045.

(3) This section does not apply to vehicles exempted from this section under ORS 815.145.

(4) This section only applies to sections of highway on which a road authority requires the use of traction tires or chains and on which signs requiring the use of traction tires or chains have been posted as provided in ORS 815.045.

(5) A court [*shall*] **may** not find a person to be in violation of the offense described under this section if the court determines that the conditions of the highway at the time the person was cited did not require posting under rules adopted under ORS 815.045. The defense under this subsection may be affirmatively asserted by any person cited for violation of the offense described in this section.

[(6) *The offense described in this section, failure to use vehicle traction tires or chains, is a Class C traffic violation.*]

(6) The offense described in this section, failure to use vehicle traction tires or chains, is a specific fine traffic violation. The presumptive fine for failure to use vehicle traction tires or chains is \$880.

SECTION 44. ORS 315.591 is amended to read:

315.591. As used in ORS 315.591 to 315.606:

(1) “Infrastructure” includes tracks, switches, sidings, roadbeds, railroad bridges and industrial leads owned **or leased** by a short line railroad.

(2) “Short line railroad” means a class II or class III railroad as defined in 49 C.F.R. 1201.

(3) “Short line railroad rehabilitation project” means a project that involves the maintenance, reconstruction or replacement of infrastructure.

(4) “Short line railroad rehabilitation project costs” means costs that are directly related to the work necessary to maintain, reconstruct or replace infrastructure. “Short line railroad rehabilitation project costs” does not include costs that are funded by or used to qualify for any state or federal grants, or costs that are used to claim a federal tax credit.

(5) “Tier I short line railroad” means a short line railroad owned or leased by a person for whom the total length of short line railroad track owned or leased in Oregon is equal to or greater than 200 miles. The total amount of short line railroad track in Oregon calculated under this subsection includes any short line railroad track owned or leased by the person, or if the person is a corporation, by the person’s parent corporation or subsidiaries, regardless of whether the track is owned or leased by one or more railroads.

(6) “Tier II short line railroad” means a short line railroad that is not a tier I short line railroad or is a short line railroad owned or leased by the state, a city, a county, a port or any other public or municipal corporation.

SECTION 45. The amendments to ORS 315.591 by section 44 of this 2021 Act apply to tax years beginning on or after January 1, 2020, and before January 1, 2026.

PUBLIC CONTRACTING

SECTION 46. ORS 279A.142 is amended to read:

279A.142. A contracting agency may, by appropriate ordinance, resolution, [or] rule **or other appropriate legislative action**, limit competition for a public contract to emerging small businesses certified under ORS 200.055 if the contract price is estimated at [*\$100,000*] **\$250,000** or less and is funded by the Emerging Small Business Account established under ORS 200.180.

SECTION 47. ORS 279B.050 is amended to read:

279B.050. (1) Except as provided in subsection (2) of this section, a contracting agency shall award a public contract for goods or services by competitive sealed bidding under ORS 279B.055 or competitive sealed proposals under ORS 279B.060.

(2) The requirements of subsection (1) of this section do not apply to public contracts [*established as provided in*] **that a contracting agency awards in accordance with** ORS 279B.065, 279B.070, 279B.075, 279B.080 or 279B.085 **or to public contracts with an estimated contract price of \$250,000 or less that a contracting agency:**

(a) **Awards to an emerging small business certified under ORS 200.055; and**

(b) **Funds with moneys from the Emerging Small Business Account established under ORS 200.180.**

(3) Notwithstanding the applicability of ORS 279B.065, 279B.070, 279B.075, 279B.080 or 279B.085 to a public contract, a contracting agency nevertheless may award the public contract under subsection (1) of this section.

(4) A local contracting agency may elect, by rule, charter, ordinance or other appropriate legislative action, to award contracts for personal services, as designated under ORS 279A.055, under the procedures of ORS 279B.050 to 279B.085.

(5) State contracting agencies shall solicit contracts for personal services

in accordance with ORS 279B.050 to 279B.085.

SECTION 48. ORS 279C.307 is amended to read:

279C.307. (1) Except as provided in subsection (2) of this section, a contracting agency that procures personal services for the purpose of administering, managing, monitoring, inspecting, evaluating compliance with or otherwise overseeing a public contract that is subject to this chapter may not:

(a) Procure the personal services from a contractor or an affiliate of a contractor who is a party to the public contract that is subject to administration, management, monitoring, inspection, evaluation or oversight by means of the personal services; or

(b) Procure the personal services through the public contract that is subject to administration, management, monitoring, inspection, evaluation or oversight by means of the personal services.

(2) Subsection (1) of this section does not apply to:

(a) A procurement for construction manager/general contractor services [or to] **that includes both preconstruction services and construction services;**

(b) A design-build procurement, as defined in rules the Attorney General or a contracting agency adopts under ORS 279A.065[.], **that includes both design services and construction services; or**

(c) **A procurement that a responsible authority approves in accordance with subsection (3) of this section.**

(3)(a) For purposes of this section, “responsible authority” means, as appropriate for the contracting agency that applies for an exception to the prohibition set forth in subsection (1) of this section and the type of contract, the Director of the Oregon Department of Administrative Services, a local contract review board or, for contracts described in ORS 279A.050 (3)(b), the Director of Transportation.

(b) If a contracting agency anticipates that the contracting agency will or must procure personal services of the type described in sub-

section (1) of this section and the contracting agency wishes to accept a bid or proposal from a contractor that would otherwise be subject to the prohibition set forth in subsection (1) of this section, the contracting agency, before awarding or amending a contract for the personal services, shall apply to the responsible authority for an exception to the prohibition. The contracting agency shall simultaneously submit a copy of the application to the Attorney General for review under subsection (4) of this section.

(c) The contracting agency in the application for the exception shall include findings and justifications, along with sufficient facts to support the findings and justifications, that will enable the responsible authority to make an independent judgment as to whether:

(A) Accepting a bid, proposal or other offer from the contractor that would otherwise be subject to the prohibition set forth in subsection (1) of this section is in the best interest of the contracting agency; and

(B) Approving the exception:

(i) Is unlikely to encourage favoritism in awarding public contracts or to substantially diminish competition for public contracts; and

(ii)(I) Is reasonably expected to result in substantial cost savings to the contracting agency or the public; or

(II) Otherwise substantially promotes the public interest in a manner that could not be practicably realized by complying with the prohibition set forth in subsection (1) of this section.

(d)(A) If the responsible authority, after considering any recommendation from the Attorney General under subsection (4) of this section, approves the contracting agency's application, the responsible authority shall prepare written findings and justifications for the approval. The contracting agency's findings, justifications and facts and the responsible authority's findings, justifications and approval or disapproval are public records that are subject to disclosure as pro-

1 vided in ORS 192.311 to 192.478.

2 (B) If the responsible authority disapproves the contracting
3 agency's application, the responsible authority shall state reasons for
4 the disapproval in a written notice to the contracting agency.

5 (C) The responsible authority's approval or disapproval is final.

6 (4)(a) Upon receiving a submission from a contracting agency under
7 subsection (3)(b) of this section, the Attorney General shall review the
8 contracting agency's application for an exception to the prohibition
9 set forth in subsection (1) of this section, adding to the criteria under
10 which the responsible authority considers the application a determi-
11 nation as to whether a reasonable person would believe that approving
12 the exception would:

13 (A) Give or appear to give the contractor or an affiliate of the
14 contractor an unwarranted advantage in obtaining, or unwarranted
15 compensation under, the public contract that is subject to adminis-
16 tration, management, monitoring, inspection, evaluation or oversight
17 by means of the contractor's personal services; or

18 (B) Present an irreconcilable conflict between the contractor's in-
19 terests and the interests of the contracting agency, or of another
20 contractor that is a party to the public contract.

21 (b) If the Attorney General finds that a reasonable person would
22 conclude that the conditions described in paragraph (a) of this sub-
23 section exist or if the Attorney General otherwise believes that the
24 responsible authority should not approve the exception, the Attorney
25 General shall recommend to the responsible authority that the re-
26 sponsible authority disapprove the exception.

27 **SECTION 49.** ORS 279C.335 is amended to read:

28 279C.335. (1) All public improvement contracts [*shall*] **must** be based upon
29 competitive bids except:

30 (a) A public improvement contract with a qualified nonprofit agency that
31 provides employment opportunities for individuals with disabilities under

ORS 279.835 to 279.855.

(b) A public improvement contract that is exempt under subsection (2) of this section.

(c) A public improvement contract with a value of less than \$5,000.

(d) A public improvement contract with a contract price that does not exceed \$100,000 made under procedures for competitive quotes in ORS 279C.412 and 279C.414.

(e) A contract to repair, maintain, improve or protect property the Department of Veterans' Affairs obtains under ORS 407.135 and 407.145 (1).

(f) An energy savings performance contract that a contracting agency enters into in accordance with rules of procedure adopted under ORS 279A.065.

(g) A public improvement contract with an estimated contract price of \$250,000 or less that a contracting agency awards to an emerging small business certified under ORS 200.055 and funds with moneys from the Emerging Small Business Account established under ORS 200.180. A contracting agency that awards a public contract exempted from competitive bidding under this paragraph shall solicit competitive quotes as provided in ORS 279C.414 before making the award.

(2) Subject to subsection (4)(b) and (c) of this section, the Director of the Oregon Department of Administrative Services, a local contract review board or, for contracts described in ORS 279A.050 (3)(b), the Director of Transportation may exempt a public improvement contract or a class of public improvement contracts from the competitive bidding requirement of subsection (1) of this section after the Director of the Oregon Department of Administrative Services, the Director of Transportation or the local contract review board approves the following findings that the contracting agency submits or, if a state agency is not the contracting agency, that the state agency that is seeking the exemption submits:

(a) The exemption is unlikely to encourage favoritism in awarding public improvement contracts or substantially diminish competition for public im-

provement contracts.

(b) Awarding a public improvement contract under the exemption will likely result in substantial cost savings and other substantial benefits to the contracting agency or the state agency that seeks the exemption or, if the contract is for a public improvement described in ORS 279A.050 (3)(b), to the contracting agency or the public. In approving a finding under this paragraph, the Director of the Oregon Department of Administrative Services, the Director of Transportation or the local contract review board shall consider the type, cost and amount of the contract and, to the extent applicable to the particular public improvement contract or class of public improvement contracts, the following:

(A) How many persons are available to bid;

(B) The construction budget and the projected operating costs for the completed public improvement;

(C) Public benefits that may result from granting the exemption;

(D) Whether value engineering techniques may decrease the cost of the public improvement;

(E) The cost and availability of specialized expertise that is necessary for the public improvement;

(F) Any likely increases in public safety;

(G) Whether granting the exemption may reduce risks to the contracting agency, the state agency or the public that are related to the public improvement;

(H) Whether granting the exemption will affect the sources of funding for the public improvement;

(I) Whether granting the exemption will better enable the contracting agency to control the impact that market conditions may have on the cost of and time necessary to complete the public improvement;

(J) Whether granting the exemption will better enable the contracting agency to address the size and technical complexity of the public improvement;

(K) Whether the public improvement involves new construction or renovates or remodels an existing structure;

(L) Whether the public improvement will be occupied or unoccupied during construction;

(M) Whether the public improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions; and

(N) Whether the contracting agency or state agency has, or has retained under contract, and will use contracting agency or state agency personnel, consultants and legal counsel that have necessary expertise and substantial experience in alternative contracting methods to assist in developing the alternative contracting method that the contracting agency or state agency will use to award the public improvement contract and to help negotiate, administer and enforce the terms of the public improvement contract.

(c) As an alternative to the finding described in paragraph (b) of this subsection, if a contracting agency or state agency seeks an exemption that would allow the contracting agency or state agency to use an alternative contracting method that the contracting agency or state agency has not previously used, the contracting agency or state agency may make a finding that identifies the project as a pilot project for which the contracting agency or state agency intends to determine whether using the alternative contracting method actually results in substantial cost savings to the contracting agency, to the state agency or, if the contract is for a public improvement described in ORS 279A.050 (3)(b), to the contracting agency or the public. The contracting agency or state agency shall include an analysis and conclusion regarding actual cost savings, if any, in the evaluation required under ORS 279C.355.

(3) In making findings to support an exemption for a class of public improvement contracts, the contracting agency or state agency shall clearly identify the class using the class's defining characteristics. The characteristics must include a combination of project descriptions or locations, time

1 periods, contract values, methods of procurement or other factors that dis-
2 tinguish the limited and related class of public improvement contracts from
3 the agency's overall construction program. The agency may not identify a
4 class solely by funding source, such as a particular bond fund, or by the
5 method of procurement, but shall identify the class using characteristics that
6 reasonably relate to the exemption criteria set forth in subsection (2) of this
7 section.

8 (4) In granting exemptions under subsection (2) of this section, the Di-
9 rector of the Oregon Department of Administrative Services, the Director of
10 Transportation or the local contract review board shall:

11 (a) If appropriate, direct the use of alternative contracting methods that
12 take account of market realities and modern practices and are consistent
13 with the public policy of encouraging competition.

14 (b) Require and approve or disapprove written findings by the contracting
15 agency or state agency that support awarding a particular public improve-
16 ment contract or a class of public improvement contracts, without the com-
17 petitive bidding requirement of subsection (1) of this section. The findings
18 must show that the exemption of a contract or class of contracts complies
19 with the requirements of subsection (2) of this section.

20 (c) Require a contracting agency or state agency that procures con-
21 struction manager/general contractor services to conduct the procurement in
22 accordance with model rules the Attorney General adopts under ORS
23 279A.065 (3).

24 (5)(a) A contracting agency or state agency [*shall*] **may** hold a public
25 hearing before approving the findings required by subsection (2) of this sec-
26 tion and before the Director of the Oregon Department of Administrative
27 Services, the Director of Transportation or the local contract review board
28 grants an exemption from the competitive bidding requirement for a public
29 improvement contract or a class of public improvement contracts.

30 (b) Notification of [*the public hearing*] **a proposed exemption under**
31 **subsection (2) of this section** must be published in at least one trade

1 newspaper of general statewide circulation a minimum of 14 days before the
2 *[hearing]* **date on which the contracting agency intends to take action**
3 **to approve or disapprove the exemption.**

4 (c) The notice must state that **in response to a written request**, the
5 **contracting agency or state agency will hold a** public hearing *[is]* for the
6 purpose of taking comments on the draft findings for an exemption from the
7 competitive bidding requirement. *[At the time of the notice, copies of the draft*
8 *findings must be made available to the public. At the option of the contracting*
9 *agency or state agency, the notice may describe the process by which the*
10 *findings are finally adopted and may indicate the opportunity for further*
11 *public comment.]*

12 (d) *[At the]* **If the contracting agency or state agency conducts a**
13 public hearing, the contracting agency or state agency shall offer an oppor-
14 tunity for any interested party to appear and comment.

15 (e) If a contracting agency or state agency must act promptly because of
16 circumstances beyond the agency's control that do not constitute an emer-
17 gency, notification of the *[public hearing]* **proposed exemption** may be
18 published simultaneously with the agency's solicitation of contractors for the
19 alternative public contracting method, as long as responses to the solicita-
20 tion are due at least five days after the *[hearing and approval of the*
21 *findings]* **agency intends to take action to approve or disapprove the**
22 **proposed exemption.**

23 (6) The purpose of an exemption is to exempt one or more public im-
24 provement contracts from competitive bidding requirements. The representa-
25 tions in and the accuracy of the findings, including any general description
26 of the resulting public improvement contract, are the bases for approving the
27 findings and granting the exemption. The findings may describe anticipated
28 features of the resulting public improvement contract, but the final parame-
29 ters of the contract are those characteristics or specifics announced in the
30 solicitation document.

31 (7) A public improvement contract awarded under the competitive bidding

1 requirement of subsection (1) of this section may be amended only in ac-
2 cordance with rules adopted under ORS 279A.065.

3 (8) A public improvement contract that is excepted from the competitive
4 bidding requirement under subsection (1)(a), (c), (d), (e), [or] (f) **or (g)** of this
5 section is not subject to the exemption requirements of subsection (2) of this
6 section.

7 **SECTION 50. The amendments to ORS 279A.142, 279B.050, 279C.307**
8 **and 279C.335 by sections 46 to 49 of this 2021 Act apply to contracts that**
9 **a contracting agency or state agency advertises or otherwise solicits,**
10 **or, if the contracting agency or state agency does not advertise or**
11 **solicit the public contract, to public contracts into which the con-**
12 **tracting agency or state agency enters on or after the operative date**
13 **specified in section 51 of this 2021 Act.**

14 **SECTION 51. (1) The amendments to ORS 279A.142, 279B.050,**
15 **279C.307 and 279C.335 by sections 46 to 49 of this 2021 Act become op-**
16 **erative on January 1, 2022.**

17 **(2) The Attorney General, the Director of the Oregon Department**
18 **of Administrative Services, the Director of Transportation and a con-**
19 **tracting agency or state agency that adopts rules under ORS 279A.065**
20 **or 279A.070 may adopt rules and take any other action before the op-**
21 **erative date specified in subsection (1) of this section that is necessary**
22 **to enable the Attorney General, the director and the contracting**
23 **agency or state agency to undertake and exercise, on and after the**
24 **operative date specified in subsection (1) of this section, all of the du-**
25 **ties, functions and powers conferred on the Attorney General, the di-**
26 **rector and the contracting agency or state agency by the amendments**
27 **to ORS 279A.142, 279B.050, 279C.307 and 279C.335 by sections 46 to 49 of**
28 **this 2021 Act.**

29
30 **TOLLING**
31

SECTION 52. ORS 383.003 is amended to read:

383.003. As used in ORS 383.003 to 383.075:

(1) “Department” means the Department of Transportation.

[(2) “*Electronic toll collection system*” means a system that records use of a tollway by electronic transmissions to or from the vehicle using the tollway and that collects tolls, or that is capable of charging an account established by a person for use of the tollway.]

[(3) “*Photo enforcement system*” means a system of sensors installed to work in conjunction with an electronic toll collection system and other traffic control devices and that automatically produces videotape or one or more photographs, microphotographs or other recorded images of a vehicle in connection with the collection or enforcement of tolls.]

(2) “Electronic toll collection system” means a system for collecting tolls that:

(a) Does not require a vehicle to stop at a toll booth to pay the toll; and

(b) Uses transponder readers and license plate capture cameras to aid in collecting tolls.

[(4)] **(3)** “Private entity” means any nongovernmental entity, including a corporation, partnership, company or other legal entity, or any natural person.

[(5)] **(4)** “Related facility” means any real or personal property that:

(a) Will be used to operate, maintain, renovate or facilitate the use of the tollway;

(b) Will provide goods or services to the users of the tollway; or

(c) [Can be developed efficiently when tollways are developed and] Will generate revenue that may be used to reduce tolls or will be deposited in the [State Tollway Account] **Toll Program Fund.**

[(6)] **(5)** “Toll” means any fee or charge for the use of a tollway.

[(7) “*Toll booth collections*” means the manual or mechanical collection of cash or charging of an account at a toll plaza, toll booth or similar fixed toll

1 *collection facility.]*

2 [(8)] (6) “Tollway” means any roadway, path, highway, bridge, tunnel,
3 railroad track, bicycle path or other paved surface or structure specifically
4 designed as a land vehicle transportation route **for the use of which tolls**
5 **are assessed**[, *the construction, operation or maintenance of which is wholly*
6 *or partially funded with toll revenues resulting from an agreement under ORS*
7 *383.005].*

8 [(9)] (7) “Tollway operator” means the unit of government or the private
9 entity that is responsible for **all or any portion of** the construction, recon-
10 struction, [*installation,*] improvement, financing, maintenance, repair and
11 operation of a tollway or a related facility.

12 [(10)] (8) “Tollway project” means any capital project involving the [*ac-*
13 *quisition of land for, or the construction, reconstruction, improvement, instal-*
14 *lation,*] development, **operation** or equipping of[,] a tollway, related facilities
15 or any portion thereof.

16 (9) “**Tollway project revenue bonds**” means revenue bonds **desig-**
17 **nated as tollway project revenue bonds under section 65 of this 2021**
18 **Act.**

19 [(11)] (10) “Unit of government” means any department or agency of the
20 federal government, any state, any department or agency of a state, any
21 bistate entity created by agreement under ORS 190.420 or other law for the
22 purposes of the Interstate 5 bridge replacement project, and any city, county,
23 district, port or other public corporation organized and existing under stat-
24 utory law or under a voter-approved charter.

25 **SECTION 53.** ORS 383.004 is amended to read:

26 383.004. (1) Except as provided in subsection (2) of this section, a toll may
27 not be established unless the Oregon Transportation Commission has re-
28 viewed and approved the toll. The commission shall adopt rules specifying
29 the process under which proposals to establish tolls will be reviewed. When
30 reviewing a proposal to establish tolls, the commission shall take into con-
31 sideration:

(a) The amount and classification of the traffic using, or anticipated to use, the tollway;

(b) The amount of the toll proposed to be established for each class or category of tollway user and, if applicable, the different amounts of the toll depending on time and day of use;

(c) The extent of the tollway, including improvements necessary for tollway operation and improvements necessary to support the flow of traffic onto or off of the tollway;

(d) The location of [*toll plazas or toll collection devices*] **toll booths or electronic toll collection systems** to collect the toll for the tollway;

(e) The cost of constructing, reconstructing, improving, installing, maintaining, repairing and operating the tollway;

(f) The amount of indebtedness incurred for the construction of the tollway and **all expenses and obligations related to the indebtedness including, without limitation, financial covenants**, debt service requirements, **reserve requirements and any other funding requirements established under the terms of any indenture prepared under section 68 of this 2021 Act and any other contracts establishing the terms of the indebtedness**, if any;

(g) The value of assets, equipment and services required for the operation of the tollway;

(h) The period of time during which the toll will be in effect;

(i) The process for altering the amount of the toll during the period of operation of the tollway;

(j) The method of collecting the toll; and

(k) The rate of return that would be fair and reasonable for a private equity holder, if any, in the tollway.

(2)(a) Nothing in ORS 383.003 to 383.075 prohibits a city or county from establishing a toll on any highway, as defined in ORS 801.305, that the city or county has jurisdiction over as a road authority pursuant to ORS 810.010.

(b) Nothing in ORS 383.003 to 383.075 prohibits Multnomah County from

establishing a toll on the bridges across the Willamette River that are within the boundaries of the City of Portland and that are operated and maintained by Multnomah County as required under ORS 382.305 and 382.310.

SECTION 54. ORS 383.009 is amended to read:

383.009. (1) There is hereby established the [*State Tollway Account*] **Toll Program Fund** as a separate [*account*] **and distinct fund** [*within*] **from** the [*State Highway Fund*] **General Fund**. The [*State Tollway Account*] **Toll Program Fund** shall consist of:

(a) All moneys and revenues received by the Department of Transportation from or made available by the federal government to the department for any tollway project or for the operation or maintenance of any tollway;

(b) Any moneys received by the department from any other unit of government or any private entity for a tollway project or from the operation or maintenance of any tollway;

(c) All moneys and revenues received by the department from any **agreement entered into or** loan made by the department for a tollway project pursuant to ORS 383.005, and from any lease, agreement, franchise or license for the right to the possession and use, operation or management of a tollway project;

(d) All tolls and other revenues received by the department **or tollway operator** from the users of any tollway project;

(e) The proceeds of any bonds authorized to be issued for tollway projects;

(f) Any moneys that the department has legally transferred from the State Highway Fund to the [*State Tollway Account*] **Toll Program Fund** for tollway projects;

(g) All moneys and revenues received by the department from all other sources that by **gift, bequest, donation, grant, contract or law from any public or private source are for deposit in the fund** [*are allocated or dedicated for tollway projects*];

(h) All interest earnings on investments made from any of the moneys held in the [*State Tollway Account*] **Toll Program Fund**; [*and*]

1 (i) All civil penalties and administrative fees paid to the department from
2 the enforcement of tolls[.];

3 **(j) Fees paid to the department for information provided under ORS**
4 **383.075;**

5 **(k) Moneys appropriated for deposit in or otherwise transferred to**
6 **the Toll Program Fund by the Legislative Assembly; and**

7 **(L) Moneys received from federal sources or other state or local**
8 **sources, excluding proceeds of Highway User Tax Bonds issued under**
9 **ORS 367.615 that finance projects other than toll projects.**

10 (2) Moneys in the [*State Tollway Account*] **Toll Program Fund** may be
11 used by the department for the following purposes:

12 (a) To finance preliminary studies and reports for any tollway project;

13 (b) To acquire land to be owned by the state for tollways and any related
14 facilities therefor;

15 (c) To finance the construction, renovation, operation, improvement,
16 maintenance or repair of any tollway project;

17 (d) To make grants or loans to a unit of government for tollway projects;

18 (e) To make loans to private entities for tollway projects;

19 (f) To pay the principal, interest and premium due with respect to, and
20 to pay the costs connected with the issuance or ongoing administration of,
21 any bonds or other financial obligations authorized to be issued by, or the
22 proceeds of which are received by, the department for any tollway project,
23 **including capitalized interest and any rebates or penalties due to the**
24 **United States in connection with the bonds;**

25 (g) To provide a guaranty or other security for any bonds or other fi-
26 nancial obligations, including but not limited to financial obligations with
27 respect to any bond insurance, surety or credit enhancement device issued
28 or incurred by the department, a unit of government or a private entity, for
29 the purpose of financing a single tollway project or any related group or
30 system of [*tollways*] **tollway projects** or related facilities; [*and*]

31 (h) To pay the costs incurred by the department in connection with its

oversight, operation and administration of the [*State Tollway Account*] **Toll Program Fund**, the proposals and projects submitted under ORS 383.015 and the tollway projects financed under ORS 383.005[.]; **and**

(i) **To develop, implement and administer the toll program established under ORS 383.150, including the cost of consultants, advisors, attorneys or other professional service providers appointed, retained or approved by the department.**

(3) For purposes of paying or securing bonds or providing a guaranty, surety or other security authorized by [*subsection (2)(g) of*] this section, the department may:

(a) Irrevocably pledge all or any portion of the amounts that are credited to, or are required to be credited to, the [*State Tollway Account*] **Toll Program Fund**;

(b) Establish subaccounts in the [*State Tollway Account*] **Toll Program Fund**, and make covenants regarding the credit to and use of amounts in those [*accounts and*] subaccounts; and

(c) Establish separate trust funds or accounts and make covenants to transfer to those separate trust funds or accounts all or any portion of the amounts that are required to be deposited in the [*State Tollway Account*] **Toll Program Fund**.

(4) Notwithstanding any other provision of ORS 383.001 to 383.075, the department shall not pledge any funds or amounts at any time held in the [*State Tollway Account*] **Toll Program Fund** as security for the obligations of a **unit of government or a** private entity unless the department has entered into a binding and enforceable agreement that provides the department reasonable assurance that the department will be repaid, with appropriate interest, any amounts that the department is required to advance pursuant to that pledge.

(5) Moneys in the [*State Tollway Account*] **Toll Program Fund** are continuously appropriated to the department for purposes authorized by this section.

(6) Moneys in the Toll Program Fund that are transferred from the State Highway Fund or are derived from any revenues under Article IX, section 3a, of the Oregon Constitution, may be used only for purposes authorized by Article IX, section 3a, of the Oregon Constitution.

SECTION 55. The Toll Program Fund is a continuation of the State Tollway Account. Moneys contained in the State Tollway Account on the effective date of this 2021 Act are considered to be moneys in the Toll Program Fund.

SECTION 56. ORS 383.155 is repealed.

SECTION 57. (1) The Congestion Relief Fund, established under ORS 383.155, is abolished.

(2) Any moneys remaining in the Congestion Relief Fund on the effective date of this 2021 Act that are unexpended, unobligated and not subject to any conditions shall be transferred to the Toll Program Fund established under ORS 383.009.

SECTION 58. ORS 383.014 is amended to read:

383.014. [*The Oregon Transportation Commission shall set standards by rule for electronic toll collection systems and photo enforcement systems used on tollways in this state to ensure that systems used in Oregon and systems used in the State of Washington are compatible to the extent technology permits.*] The Oregon Transportation Commission shall establish criteria when selecting electronic toll collection systems used in this state to ensure interoperability with tolling systems used in other states, to the extent that technology facilitating interoperability exists.

SECTION 59. ORS 383.017 is amended to read:

383.017. [(1) *The Department of Transportation may award any contract, franchise, license or agreement related to a tollway project, other than a concession for the provision of goods or services at a rest area, under a competitive process or by private negotiation with one or more entities, or by any combination of competition and negotiation without regard to any other laws concerning the procurement of goods or services for projects of the state.*]

1 *[(2) When using a competitive process for the award of a tollway project*
 2 *contract, the department shall consider the following factors in addition to the*
 3 *proposer's estimate of cost:]*

4 *[(a) The quality of the design, if applicable, submitted by a proposer. In*
 5 *considering the quality of the design of a tollway project, the department shall*
 6 *take into consideration:]*

7 *[(A) The structural integrity of the design, including the probable effect of*
 8 *the design on the future costs of maintenance of the tollway;]*

9 *[(B) The aesthetic qualities of the design, including such factors as the*
 10 *width of lane separators, landscaping and sound walls;]*

11 *[(C) The traffic capacity of the design;]*

12 *[(D) The aspects of the design that affect safety, such as the lane width, the*
 13 *quality of lane markers and separators, the shape and positioning of ramps*
 14 *and curves and the changes in elevation; and]*

15 *[(E) The ease with which traffic will be able to pass through the toll col-*
 16 *lection facilities.]*

17 *[(b) The extent to which small businesses will be involved in the tollway*
 18 *project. The department shall encourage participation by small businesses to*
 19 *the maximum extent the department determines is practicable. As used in this*
 20 *paragraph, "small business" means an independent business with fewer than*
 21 *20 employees and with average annual gross receipts over the last three years*
 22 *not exceeding \$1 million for construction firms and \$300,000 for noncon-*
 23 *struction firms. "Small business" does not include a subsidiary or parent*
 24 *company belonging to a group of firms that are owned and controlled by the*
 25 *same individuals and that have average aggregate annual gross receipts in*
 26 *excess of \$1 million for construction firms or \$300,000 for nonconstruction firms*
 27 *over the last three years.]*

28 *[(c) The financial stability of the proposer and the ability of the proposer*
 29 *to provide funding for the tollway project and surety for its performance and*
 30 *financial obligations with respect to the tollway project.]*

31 *[(d) The experience of the proposer and its subcontractors in building and*

operating projects such as the tollway project.]

[(e) The terms of the financial arrangement proposed or accepted by the proposer with respect to franchise fees, license fees, lease payments or operating expenses and the proposer's required rate of return from its operation or maintenance of the tollway.]

[(3)(a) The department may adopt rules and procedures for the award of franchises, licenses, leases or other concessions for rest areas without regard to any other laws concerning the procurement of goods or services for projects of the state. All such franchises, licenses, leases or other concessions shall require the franchisee, licensee, lessee or concessionaire, as applicable, to maintain the subject premises in accordance with all applicable state and federal health and safety standards, to maintain one or more policies of casualty and property insurance and adequate workers' compensation insurance, and to pay and discharge all taxes, utilities, fees and other charges or claims that are levied, assessed or charged against the premises or concession or that may become a lien upon the premises. The rules shall encourage participation by small businesses to the maximum extent the department determines is practicable. The department may grant any small business a 10 percent or greater bid advantage in any bidding process for a concession.]

[(b) As used in this subsection, "small business" means an independent business with fewer than 20 employees and with average annual gross receipts over the last three years not exceeding \$300,000. "Small business" does not include a subsidiary or parent company belonging to a group of firms that are owned and controlled by the same individuals and that have average aggregate annual gross receipts in excess of \$300,000 over the last three years. "Small business" also does not include a franchise of any business that has average aggregate annual gross receipts in excess of \$300,000 over the last three years.]

[(4) Notwithstanding any other provision of this section, the department may use any method for the award of any contract, franchise, license or agreement that is necessary to comply with the requirements of any grant or

other funding source.]

[(5) If public funds are involved in the project, construction of a tollway project shall be subject to the prevailing wage requirements of ORS 279C.800 to 279C.870.]

[(6) For purposes of complying with applicable state and local land use laws, including statewide planning goals, comprehensive plans, land use regulations, ORS chapters 195, 196, 197, 198, 199, 215, 221, 222 and 227, and any requirement imposed by the Land Conservation and Development Commission, a tollway project shall be treated as a project of the department and not as a project of any other person or entity.]

[(7)] (1) Tollways, and any related facilities that would normally be purchased, constructed or installed by the Department of Transportation if the tollway were a conventional highway that was constructed and operated by the department, shall be exempt from ad valorem property taxation.

[(8)] (2) Tollways are considered state highways for purposes of law enforcement and application of the Oregon Vehicle Code.

SECTION 60. ORS 383.035 is amended to read:

383.035. (1) A person shall pay a toll established under ORS 383.004.

[(1)] (2) A person who fails to pay a toll[,] established [pursuant to] under ORS 383.004[,] shall pay to the Department of Transportation the amount of the toll, a civil penalty [of not more than \$25] and an administrative fee established by the tollway operator not to exceed the actual cost of collecting the unpaid toll. The department shall adopt by rule the amount of civil penalty that may be imposed for each violation of subsection (1) of this section.

(3) A civil penalty imposed under this section may be remitted or reduced upon such terms and conditions as the department considers proper and consistent.

[(2)] (4) In addition to any other penalty, the department shall refuse to renew the motor vehicle registration of [the] a motor vehicle [owned by a person who] when the registered owner of the motor vehicle has not paid

the toll, the civil penalty and any administrative fee charged under this section.

[(3)] **(5)** This section does not apply to:

[(a) *A person operating a vehicle owned by a unit of government or the tollway operator;*]

[(b)] **(a)** A person who is a member of a category of persons exempted by the Oregon Transportation Commission from paying a toll; or

[(c)] **(b)** A person who is a member of a category of persons made eligible by the commission for paying a reduced toll, to the extent of the reduction.

[(4) *Subsection (1) of this section does not apply to a person who fails to pay a toll established under section 8, chapter 4, Oregon Laws 2013.*]

[(5)(a) *Upon receiving a request from the State of Washington, or from the State of Washington's designee that has contracted with the State of Washington to collect tolls, the department shall provide information to identify registered owners of vehicles who fail to pay a toll established under section 8, chapter 4, Oregon Laws 2013.*]

[(b) *If the State of Washington, or the State of Washington's designee that has contracted with the State of Washington to collect tolls, gives notice to the department that a person has not paid a toll established under section 8, chapter 4, Oregon Laws 2013, or a civil penalty or administrative fee imposed by reason of failure to pay the toll, the department shall refuse to renew the Oregon motor vehicle registration of the motor vehicle operated by the person at the time of the violation.*]

[(c) *The department may renew an Oregon motor vehicle registration of a person described in paragraph (b) of this subsection upon receipt of a notice from the State of Washington, or from the State of Washington's designee, indicating that all tolls, civil penalties and other administrative fees owed by the person have been paid.*]

(6) Civil penalties imposed under this section shall be imposed in the manner provided by ORS 183.745.

SECTION 61. ORS 383.045 is amended to read:

383.045. (1) **A recorded image produced by an electronic toll collection system shall capture only images of a vehicle and the license plate of the vehicle.**

[(1)] (2) Except as provided in subsection [(2)] (3) of this section, a recorded image of a vehicle and the [registration] **license** plate of the vehicle produced by [a photo enforcement] **an electronic toll collection** system at the time the driver of the vehicle did not pay a toll shall be prima facie evidence that the registered owner of the vehicle is the driver of the vehicle.

[(2)] (3) If the registered owner of a vehicle is a person in the vehicle rental or leasing business, the registered owner may elect to identify the person who was operating the vehicle at the time the toll was not paid or to pay the toll, civil penalty and administrative fee.

[(3)] (4) A registered owner of a vehicle who pays the toll, civil penalty and administrative fee is entitled to recover the same from the driver, renter or lessee of the vehicle.

SECTION 62. ORS 383.075 is amended to read:

383.075. (1) Except as provided in subsections (2) and (3) of this section, records and information used to collect and enforce tolls are exempt from disclosure under public records law and are to be used solely for toll collection [and traffic management by the Department of Transportation].

(2) Information collected or maintained by an electronic toll collection system may not be disclosed to anyone except:

(a) The owner of an account that is charged for the use of a tollway;

(b) A **collection agency, as defined in ORS 697.005, a payment processor as defined by the Department of Transportation by rule, an agency, as defined in ORS 183.310, or a financial institution, as necessary to collect tolls owed;**

(c) Employees of the department;

(d) The tollway operator and authorized employees of the operator;

(e) A law enforcement officer who is acting in the officer's official capacity in connection with toll enforcement; [and]

(f) An administrative law judge or court in an action or proceeding in relation to unpaid tolls or administrative fees or civil penalties related to unpaid tolls[.]; **and**

(g) As requested for use in any civil, criminal or other legal proceeding or investigation that relates to the use of a tollway.

(3) Information collected or maintained by a photo enforcement system may not be disclosed to anyone except:

(a) The registered owner [*or apparent driver*] of the vehicle;

(b) Employees of the department;

(c) The tollway operator and authorized employees of the operator;

(d) A law enforcement officer who is acting in the officer's official capacity in connection with toll enforcement; and

(e) An administrative law judge or court in an action or proceeding in relation to unpaid tolls or administrative fees or civil penalties related to unpaid tolls.

(4) The department may charge a reasonable fee under ORS 192.324 for providing information under this section.

(5) The department may adopt rules specifying conditions that must be met by a person or unit of government requesting information under this section. Conditions may include but are not limited to:

(a) Providing reasonable assurance of the identity of the requester;

(b) Providing reasonable assurance of the uses to which the information will be put, if applicable;

(c) Showing that the person whose information is to be disclosed has given permission for the disclosure, if permission is required; and

(d) Submitting a written request for the information in a form prescribed by the department.

SECTION 63. ORS 383.150 and sections 65 to 70 of this 2021 Act are added to and made a part of ORS 383.003 to 383.075.

SECTION 64. ORS 383.150 is amended to read:

383.150. (1) The Oregon Transportation Commission shall establish a

[*traffic congestion relief program*] **toll program.**

[(2) *No later than December 31, 2018, the commission shall seek approval from the Federal Highway Administration, if required by federal law, to implement value pricing as described in this section.*]

[(3)] **(2) As part of the toll program,** after seeking and receiving approval from the Federal Highway Administration, the commission shall implement [*value pricing to reduce traffic congestion*] **tolling.** [*Value pricing*] **Tolling** may include, but is not limited to, variable time-of-day pricing. The commission shall implement [*value pricing*] **tolling** in the following locations:

(a) On Interstate 205, beginning at the Washington state line and ending where it intersects with Interstate 5 in this state.

(b) On Interstate 5, beginning at the Washington state line and ending where it intersects with Interstate 205.

[(4)] **(3)** In addition to [*areas*] **locations** listed in subsection [(3)] **(2)** of this section, the commission may implement [*value pricing*] **tolling** in other [*areas*] **locations** of this state.

[(5) *Notwithstanding ORS 383.009, the revenues received from value pricing under this section shall be deposited into the Congestion Relief Fund established under ORS 383.155 for the implementation and administration of the congestion relief program established pursuant to this section, including but not limited to the Value Pricing Set-Up Project.*]

[(6) *Subject to any restrictions in an agreement with the Federal Highway Administration or other federal law, in addition to the amounts received from value pricing under this section, the moneys in the Congestion Relief Fund shall be used to implement and administer the traffic congestion relief program.*]

[(7)] **(4)** Before [*imposing value pricing*] **implementing tolling in the locations described under subsection (2) of this section,** the commission shall report to the Joint Committee on Transportation established under ORS 171.858.

1 [(8)] (5) The commission may enter into agreements with the State of
2 Washington, or the State of Washington's **tollway operator or other**
3 designee, relating to establishing, reviewing, adjusting and collecting tolls
4 for the program described in this section.

5 **SECTION 65. Revenue bonds for tollway projects.** (1) In accordance
6 with the applicable provisions of ORS chapter 286A, the State Treas-
7 urer, at the request of the Department of Transportation, may issue
8 and sell revenue bonds known as tollway project revenue bonds for the
9 purpose of financing tollway projects, provided that such bonds do not
10 constitute a debt or general obligation of the department or of this
11 state or any of its political subdivisions, but shall be payable solely
12 from the revenues, amounts, funds and accounts described in ORS
13 383.009 and sections 66 and 69 of this 2021 Act.

14 (2) The proceeds of bonds issued under this section may be used by
15 the department or loaned or granted to a private entity or a local
16 government, as defined in ORS 174.116, for the purposes of:

17 (a) Financing any portion of the costs related to the purposes de-
18 scribed in ORS 383.009 (2);

19 (b) Funding any required reserves; and

20 (c) Paying costs of issuing the bonds.

21 (3) The bonds authorized by this section may be issued as taxable
22 bonds or as tax-exempt bonds under the income tax laws of the United
23 States.

24 (4) Notwithstanding the status of the bonds for federal income tax
25 purposes, interest paid to the owners of the bonds shall be exempt
26 from personal income taxes imposed by this state.

27 (5) Subject to the limitations under ORS 383.004 and 383.009, when
28 issuing bonds under this section, the department and the State
29 Treasurer may make covenants with bondholders regarding the im-
30 position and regulation of tolls to meet the department's obligations
31 under the terms of any indenture prepared under section 68 of this 2021

1 Act, any loan agreement and any grant agreement, including without
2 limitation:

3 (a) Financial covenants, debt service requirements, reserve re-
4 quirements and any other funding requirements;

5 (b) The use of the amounts required to be deposited in the Toll
6 Program Fund; and

7 (c) The issuance of additional bonds.

8 (6) The state may not in any way impair obligations of any agree-
9 ment between the state and holders of tollway project revenue bonds
10 issued under this section.

11 (7) The department, with the approval of the State Treasurer, may
12 designate the extent to which a series of tollway project revenue bonds
13 authorized under this section is secured and payable:

14 (a) On a parity of lien or on a subordinate basis to existing or fu-
15 ture Highway User Tax Bonds issued under ORS 367.615, but only if
16 sufficient moneys described under ORS 367.605 may be pledged to:

17 (A) First, pay the annual bond debt service of all Highway User Tax
18 Bonds issued pursuant to ORS 367.615 and 367.620; and

19 (B) Second, pay the annual bond debt service for all tollway project
20 revenue bonds issued under this subsection; or

21 (b) From additional revenue sources as permitted under section 66
22 of this 2021 Act.

23 (8) A holder of tollway project revenue bonds issued under this
24 section may not compel the payment of federal transportation funds
25 to the department.

26 (9) This section is supplemental and in addition to any other au-
27 thority in ORS chapters 286A, 366 and 367 for the issuance of bonds by
28 the State Treasurer at the request of the department.

29 SECTION 66. Sources of funds to secure revenue bonds for tollway
30 projects. (1) Moneys deposited in the Toll Program Fund established
31 under ORS 383.009 are pledged to the payment of tollway project reve-

nue bonds issued under section 65 of this 2021 Act.

(2) The Department of Transportation, with the approval of the State Treasurer, may designate in any revenue declaration or indenture prepared under section 68 of this 2021 Act additional revenues as security for the payment of tollway project revenue bonds. The department shall set the order of priority for the additional revenues used. Additional revenues may include:

(a) Moneys under ORS 367.605, which are pledged to payment of Highway User Tax Bonds issued under ORS 367.615, on a parity of lien or on a subordinate and junior basis;

(b) Moneys received by the department from the United States government; or

(c) Any other moneys legally available to the department.

(3) The lien or charge of any pledge of moneys in the Toll Program Fund to secure bonds designated as tollway project revenue bonds under section 65 of this 2021 Act is superior or prior to any other lien or charge and to any law of the state requiring the department to spend moneys for tollway project revenue projects. As long as any tollway project revenue bonds issued under section 65 of this 2021 Act are outstanding, moneys deposited to the Toll Program Fund shall be applied first to the payment of principal of, and interest on, any bonds designated as tollway project revenue bonds under section 65 of this 2021 Act and then to any other purposes described under ORS 383.009.

SECTION 67. Collection and use of federal transportation funds. (1) If allowed by federal law, the Department of Transportation may use federal transportation funds for the following purposes:

(a) For deposit into one or more special funds or accounts that may be pledged to secure payment of the tollway project revenue bonds issued under section 65 of this 2021 Act.

(b) For payment of the costs of tollway projects.

(c) For reimbursement to the department of moneys previously

1 spent on tollway projects.

2 (2) The department may request the United States government to
3 deposit federal transportation funds directly with a trustee for the
4 holders of tollway project revenue bonds to secure payment of the
5 bonds.

6 **SECTION 68. Revenue declaration or indenture; contents; purpose.**

7 (1) Before tollway project revenue bonds are issued under section 65
8 of this 2021 Act, the Department of Transportation must prepare a
9 revenue declaration or indenture authorizing issuance of the bonds.
10 The revenue declaration or indenture must be signed by the Director
11 of Transportation or a person designated by the director and must be
12 approved by the State Treasurer or a person designated by the State
13 Treasurer.

14 (2) A revenue declaration or indenture prepared under this section
15 may do any of the following:

16 (a) Pledge any part or all of moneys described under section 66 of
17 this 2021 Act for purposes of the bonds to be issued.

18 (b) Limit the purpose for which the proceeds of the sale may be
19 applied by the department.

20 (c) Make pledges concerning the proceeds of the sale or moneys
21 described under section 66 of this 2021 Act as necessary to secure
22 payment of bonds of the department.

23 (d) Limit or establish terms upon which additional bonds or re-
24 funding bonds may be issued under section 65 of this 2021 Act.

25 (e) Provide for procedures, if any, by which the terms of contracts
26 with bondholders may be amended or rescinded, for the percentage of
27 the bondholders that must consent to amendment or rescission of the
28 contract and for the manner of bondholder consent to any amendment
29 or rescission of the contract.

30 (f) Establish a trustee and vest the trustee with property, rights,
31 powers and duties in trust, as the State Treasurer determines appro-

1 piate.

2 (g) Provide for other matters affecting the issuance of bonds.

3 (h) Provide for a debt service reserve pursuant to ORS 286A.025 (6).

4 (i) Provide for certain covenants pursuant to ORS 286A.025 (4)(c)
5 and ORS 286A.102 (10).

6 **SECTION 69. Reserve account.** (1) The Department of Transporta-
7 tion may establish one or more separate reserve accounts within, or
8 separate and distinct from, the Toll Program Fund in connection with
9 the issuance of tollway project revenue bonds issued under section 65
10 of this 2021 Act.

11 (2) The moneys held in any account established under this section
12 may be subject to the provisions of any revenue declaration or
13 indenture prepared under section 68 of this 2021 Act.

14 **SECTION 70. Bond form, issuance and maturity; provisions subject**
15 **to determination of State Treasurer.** (1) A tollway project revenue
16 bond issued under section 65 of this 2021 Act:

17 (a) Must contain on its face a statement that the ad valorem taxing
18 power of this state is not pledged to the payment of the principal or
19 the interest on the bond.

20 (b) Shall be issued as provided in ORS chapter 286A.

21 (c) Must mature on or before a date determined by calculation of
22 the expected economic life of the improvements, assets and projects
23 financed with the proceeds of the bond.

24 (2) The State Treasurer shall determine, after consultation with the
25 Department of Transportation, all aspects relating to the sale of bonds
26 under section 65 of this 2021 Act that are not otherwise specifically
27 provided in sections 65 to 70 of this 2021 Act.

28 **SECTION 71.** ORS 383.006, 383.013, 383.023 and 383.065 are repealed.

29
30 **FINANCING FOR TOLLWAY PROJECTS**
31

SECTION 72. ORS 367.010 is amended to read:

367.010. As used in this chapter:

(1) “Agency” means any department, agency or commission of the State of Oregon.

(2) “Bond” means [*an evidence of indebtedness*] **a contractual undertaking or an instrument to borrow money** including, but not limited to, a bond, a note, an obligation, a loan agreement, a financing lease, a financing agreement or other similar instrument or agreement.

(3) “Bond debt service” means payment of:

(a) Principal, interest, premium, if any, or purchase price of a bond;

(b) Amounts due to a credit enhancement provider, trustee, paying agent, **commercial paper dealer** or remarketing agent authorized by this chapter;

(c) Amounts necessary to fund bond debt service reserves; and

(d) Amounts due under an agreement for exchange of interest rates if designated by the State Treasurer or the Department of Transportation.

(4) “Credit enhancement” means a credit enhancement device, as defined in ORS 286A.001.

(5) “Financial institution” means a banking institution, a financial institution or a non-Oregon institution, as those terms are defined in ORS 706.008, and any other institution defined by rule of the Oregon Transportation Commission as a financial institution for purposes of ORS 367.010 to 367.067.

(6) “Infrastructure assistance” means any use of moneys in the Oregon Transportation Infrastructure Fund, other than an infrastructure loan, to provide financial assistance for transportation projects. The term includes, but is not limited to, use of moneys in the infrastructure fund to finance leases, fund reserves, make grants, pay issuance costs or provide credit enhancement or other security for bonds issued by a public entity to finance transportation projects.

(7) “Infrastructure bonds” means bonds authorized by ORS 367.030, 367.555

to 367.600 or 367.605 to 367.665 that are issued to fund infrastructure loans and the proceeds of which are deposited in the infrastructure fund.

(8) “Infrastructure fund” means the Oregon Transportation Infrastructure Fund.

(9) “Infrastructure loan” means a loan of moneys in the infrastructure fund to finance a transportation project.

(10) “Municipality” means a city, county, road district, school district, special district, metropolitan service district, the Port of Portland or an intergovernmental entity organized under ORS 190.010.

(11) “Transportation project” means any project or undertaking that facilitates any mode of transportation within this state. The term includes, but is not limited to, a project for highway, transit, rail and aviation capital infrastructure, bicycle and pedestrian paths, bridges and ways, and other projects that facilitate the transportation of materials, animals or people.

SECTION 73. ORS 367.555 is amended to read:

367.555. (1) The Department of Transportation may request the State Treasurer to issue general obligation bonds of the State of Oregon used to provide funds to defray the costs of building and maintaining permanent roads, including the costs of location, relocation, improvement, construction and reconstruction of state highways and bridges[*in an outstanding principal amount that is subject to the provisions of ORS 286A.035.*] **and those portions of a tollway project, as defined in ORS 383.003, that constitute building or maintaining permanent roads.**

(2) **The principal amount of any bonds issued under this section is subject to the provisions of ORS 286A.035.**

SECTION 74. ORS 367.560 is amended to read:

367.560. All moneys obtained from the sale of general obligation bonds under ORS 367.555 to 367.600 must be paid over to the State Treasurer and credited by the State Treasurer to **either** the State Highway Fund **or the Toll Program Fund**. Such moneys may be used only for the purposes [*stated in ORS 367.555 to 367.600 and, pending the use of such moneys for highway*

purposes] **for which the bonds were authorized to be sold and, pending the use of the moneys,** may be invested as provided by law.

SECTION 75. ORS 367.615 is amended to read:

367.615. (1) The Department of Transportation may request the State Treasurer to issue and sell revenue bonds known as Highway User Tax Bonds as provided in this section.

(2) Bonds issued under this section do not constitute a debt or general obligation of this state or any political subdivision of this state but are secured and payable from moneys described under ORS 367.605. A holder of bonds issued under this section may not compel the exercise of the *ad valorem* taxing power of the state to pay the bond debt service on the bonds.

(3) This state shall provide for the continued assessment, levy, collection and deposit into the highway fund of moneys described under ORS 367.605 in amounts sufficient to pay, when due, the annual bond debt service and other amounts necessary to meet requirements established by indenture under ORS 367.640.

(4) This state may not in any way impair obligations of any agreement between this state and the holders of bonds issued under this section.

(5) The authority granted by this section is continuing and the department reserves the right to request the State Treasurer to issue additional bonds under this section subject to the following:

(a) Additional bonds must be secured equally and ratably by the pledge and appropriation of moneys described under ORS 367.605 unless the State Treasurer, as permitted by law and the contracts with owners of outstanding Highway User Tax Bonds, issues additional bonds in different series and secures each series by a lien on and pledge of moneys described under ORS 367.605 that is superior to or subordinate to the lien of the pledge securing any other series of Highway User Tax Bonds.

(b) The State Treasurer may only issue additional bonds **under this section** if sufficient moneys described under ORS 367.605 may be pledged to pay the annual bond debt service for all outstanding bonds issued under this

section as well as for the additional bonds.

(6) Proceeds from the sale of bonds under this section are declared to be for the purpose of building and maintaining permanent public roads and may be used:

(a) To finance the cost of state highway, county road and city street projects in this state.

(b) To pay the cost of issuing the bonds.

(c) For loans to cities and counties as provided under ORS 367.035 or 367.655.

(d) To pay the bond debt service of the bonds.

(e) To pay the costs of the State Treasurer and the department to administer and maintain the bonds and the Highway User Tax Bond program, including the cost of consultants, advisors, attorneys or other professional service providers appointed, retained or approved by the treasurer or the department.

(f) To pay capitalized interest, principal or premium, if any, of the bonds.

(g) For rebates or penalties due to the United States in connection with the bonds.

(7) The State Treasurer, at the request of the department, may issue Highway User Tax Bonds as capital appreciation bonds, auction rate bonds, variable rate bonds, deep discount bonds or deferred interest bonds.

(8) The State Treasurer or the Director of Transportation, if so directed by the treasurer, may obtain credit enhancement or an agreement for exchange of interest rates to provide additional security or liquidity for the bonds or to provide funding, in lieu of cash, for all or a portion of a bond debt service reserve account established with respect to the bonds.

CONFORMING AMENDMENTS RELATED TO TOLLING

SECTION 76. ORS 366.505 is amended to read:

366.505. (1) **Except as provided in ORS 383.009**, the State Highway Fund

shall consist of:

(a) All moneys and revenues derived under and by virtue of the sale of bonds, the sale of which is authorized by law and the proceeds thereof to be dedicated to highway purposes.

(b) All moneys and revenues accruing from the licensing of motor vehicles, operators and chauffeurs.

(c) Moneys and revenues derived from any tax levied upon gasoline, distillate, liberty fuel or other volatile and inflammable liquid fuels, except moneys and revenues described in ORS 184.642 (2)(a) that become part of the Department of Transportation Operating Fund.

(d) Moneys and revenues derived from the road usage charges imposed under ORS 319.885.

(e) Moneys and revenues derived from the use tax imposed under ORS 320.410.

(f) Moneys and revenues derived from or made available by the federal government for road construction, maintenance or betterment purposes.

(g) All moneys and revenues received from all other sources which by law are allocated or dedicated for highway purposes.

(2) The State Highway Fund shall be deemed and held as a trust fund, separate and distinct from the General Fund, and may be used only for the purposes authorized by law and is continually appropriated for such purposes.

(3) Moneys in the State Highway Fund may be invested as provided in ORS 293.701 to 293.857. All interest earnings on any of the funds designated in subsection (1) of this section shall be placed to the credit of the highway fund.

SECTION 77. ORS 367.806 is amended to read:

367.806. (1) As part of the Oregon Innovative Partnerships Program established under ORS 367.804, the Department of Transportation may:

(a) Enter into any agreement or any configuration of agreements relating to transportation projects with any private entity or unit of government or

any configuration of private entities and units of government. The subject of agreements entered into under this section may include, but need not be limited to, planning, acquisition, financing, development, design, construction, reconstruction, replacement, improvement, maintenance, management, repair, leasing and operation of transportation projects.

(b) Include in any agreement entered into under this section any financing mechanisms, including but not limited to the imposition and collection of franchise fees or user fees and the development or use of other revenue sources.

(2) As part of the Oregon Innovative Partnerships Program established under ORS 367.804, the department shall enter into agreements to undertake transportation projects the subjects of which include the application of technology standards to determine whether to certify technology, the collection of metered use data, tax processing and account management, as these subjects relate to the operation of a road usage charge system pursuant to ORS 319.883 to 319.946.

(3) The agreements among the public and private sector partners entered into under this section must specify at least the following:

(a) At what point in the transportation project public and private sector partners will enter the project and which partners will assume responsibility for specific project elements;

(b) How the partners will share management of the risks of the project;

(c) How the partners will share the costs of development of the project;

(d) How the partners will allocate financial responsibility for cost overruns;

(e) The penalties for nonperformance;

(f) The incentives for performance;

(g) The accounting and auditing standards to be used to evaluate work on the project; and

(h) Whether the project is consistent with the plan developed by the Oregon Transportation Commission under ORS 184.617 and any applicable

1 regional transportation plans or local transportation system programs and,
2 if not consistent, how and when the project will become consistent with ap-
3 plicable plans and programs.

4 (4) The department may, either separately or in combination with any
5 other unit of government, enter into working agreements, coordination
6 agreements or similar implementation agreements to carry out the joint im-
7 plementation of any transportation project selected under ORS 367.804.

8 (5) Except for ORS 383.015[, 383.017 (1), (2), (3) and (5)] and 383.019, the
9 provisions of ORS 383.003 to 383.075 apply to any tollway project entered into
10 under ORS 367.800 to 367.824.

11 (6) The provisions of ORS 279.835 to 279.855 and ORS chapters 279A, 279B
12 and 279C do not apply to concepts or proposals submitted under ORS 367.804,
13 or to agreements entered into under this section, except that if public mon-
14 eys are used to pay any costs of construction of public works that is part
15 of a project, the provisions of ORS 279C.800 to 279C.870 apply to the public
16 works. In addition, if public moneys are used to pay any costs of construction
17 of public works that is part of a project, the construction contract for the
18 public works must contain provisions that require the payment of workers
19 under the contract in accordance with ORS 279C.540 and 279C.800 to
20 279C.870.

21 (7)(a) The department may not enter into an agreement under this section
22 until the agreement is reviewed and approved by the Oregon Transportation
23 Commission.

24 (b) The department may not enter into, and the commission may not ap-
25 prove, an agreement under this section for the construction of a public im-
26 provement as part of a transportation project unless the agreement provides
27 for bonding, financial guarantees, deposits or the posting of other security
28 to secure the payment of laborers, subcontractors and suppliers who perform
29 work or provide materials as part of the project.

30 (c) Before presenting an agreement to the commission for approval under
31 this subsection, the department must consider whether to implement proce-

dures to promote competition among subcontractors for any subcontracts to be let in connection with the transportation project. As part of its request for approval of the agreement, the department shall report in writing to the commission its conclusions regarding the appropriateness of implementing such procedures.

(8)(a) Except as provided in paragraph (b) of this subsection, documents, communications and information developed, exchanged or compiled in the course of negotiating an agreement with a private entity under this section are exempt from disclosure under ORS 192.311 to 192.478.

(b) The documents, communications or information described in paragraph (a) of this subsection are subject to disclosure under ORS 192.311 to 192.478 when the documents, communications or information are submitted to the commission in connection with its review and approval of a transportation project under subsection (7) of this section.

(9) The terms of a final agreement entered into under this section and the terms of a proposed agreement presented to the commission for review and approval under subsection (7) of this section are subject to disclosure under ORS 192.311 to 192.478.

(10) As used in this section:

(a) "Public improvement" has the meaning given that term in ORS 279A.010.

(b) "Public works" has the meaning given that term in ORS 279C.800.

SECTION 78. ORS 367.816 is amended to read:

367.816. (1) Notwithstanding ORS 367.020, the Department of Transportation may use moneys in the Oregon Transportation Infrastructure Fund established by ORS 367.015 to ensure the repayment of loan guarantees or extensions of credit made to or on behalf of private entities engaged in the planning, acquisition, financing, development, design, construction, reconstruction, replacement, improvement, maintenance, management, repair, leasing or operation of any transportation project that is part of the program established under ORS 367.804.

(2) The lien of a pledge made under this section is subordinate to the lien of a pledge securing bonds payable from moneys in the State Highway Fund described in ORS 366.505, the *[State Tollway Account]* **Toll Program Fund** established by ORS 383.009 or the State Transportation Enterprise Fund established by ORS 367.810.

SECTION 79. ORS 381.312 is amended to read:

381.312. (1) The Port of Hood River, or any private entity or unit of government that the port designates to operate a bridge in an agreement the port enters into under ORS 381.205 to 381.314, may establish, collect or alter a reasonable toll, administrative fee or civil penalty in connection with the bridge.

(2) The port or the private entity or unit of government that the port designates shall deposit any proceeds from a toll, administrative fee or civil penalty into an account established under an agreement described in ORS 381.310. The port or unit of government shall deposit the share of proceeds that the port or unit of government receives with a depository that meets the requirements set forth in ORS chapter 295. A private entity shall deposit the share of proceeds that the private entity receives with an insured institution, as defined in ORS 706.008.

(3)(a) The Department of Transportation, on behalf of the port, shall:

(A) Assess and collect the amount of a toll that a person fails to pay, plus a civil penalty and administrative fee; and

(B) Refuse to renew the motor vehicle registration of the motor vehicle of a person that failed to pay a toll, a civil penalty or an administrative fee assessed under this subsection.

(b) For the purpose of conducting the activities described in paragraph (a) of this subsection, the department shall:

(A) Treat a toll established in connection with the bridge as a toll that was established under ORS 383.004;

(B) Apply the exemptions set forth in ORS 383.035 [(3)] **(5)**; and

(C) Adopt rules to establish a process by means of which the port, a pri-

vate entity or a unit of government may request action from the department under this subsection.

SECTION 80. ORS 383.015 is amended to read:

383.015. (1) Tollway projects may be initiated by the Department of Transportation, by a unit of government having an interest in the installation of a tollway, or by a private entity interested in constructing or operating a tollway project. The department shall charge an administrative fee for reviewing and considering any tollway project proposed by a private entity, which the department shall establish by rule. All such administrative fees shall be deposited into the [*State Tollway Account*] **Toll Program Fund**.

(2) The department shall adopt rules pursuant to which it will consider authorization of a tollway project. The rules shall require consideration of:

(a) The opinions and interests of units of government encompassing or adjacent to the path of the proposed tollway project in having the tollway installed;

(b) The probable impact of the proposed tollway project on local environmental, aesthetic and economic conditions and on the economy of the state in general;

(c) The extent to which funding other than state funding is available for the proposed tollway project;

(d) The likelihood that the estimated use of the tollway project will provide sufficient revenues to independently finance the costs related to the construction and future maintenance, repair and reconstruction of the tollway project, including the repayment of any loans to be made from moneys in the [*State Tollway Account*] **Toll Program Fund**;

(e) With respect to tollway projects, any portion of which will be financed with state funds or department loans or grants:

(A) The relative importance of the proposed tollway project compared to other proposed tollways; and

(B) Traffic congestion and economic conditions in the communities that

will be affected by competing tollway projects; and

(f) The effects of tollway implementation on community and local street traffic.

(3) Notwithstanding any other provision of ORS 383.001 to 383.075, no tollway project shall be authorized unless the department finds that either:

(a) Based on the department's estimate of present and future traffic patterns, the revenues generated by the tollway project will be sufficient, after payment of all obligations incurred in connection with the acquisition, construction and operation of such tollway project, to ensure the continued maintenance, repair and reconstruction of the tollway project without the contribution of additional public funds; or

(b) The revenues generated by the tollway project will be at least sufficient to pay its operational expenses and a portion of the costs of its construction, maintenance, repair and reconstruction, and the importance of the tollway project to the welfare or economy of the state is great enough to justify the use of public funding for a portion of its construction, maintenance, repair and reconstruction.

(4) If the department finds that a proposed tollway project qualifies for authorization under this section, the department may conduct or cause to be conducted any environmental, geological or other studies required by law as a condition of construction of the tollway project. The costs of completing the studies for any proposed tollway project may be paid from moneys in the [State Tollway Account] **Toll Program Fund** that are reimbursed from the permanent financing for the project.

CONFORMING AMENDMENTS GENERALLY

SECTION 81. ORS 824.990 is amended to read:

824.990. (1) In addition to all other penalties provided by law:

(a) Every person who violates or who procures, aids or abets in the violation of ORS 824.060 (1), 824.084, 824.088, 824.304 (1) or 824.306 (1) or any

order, rule or decision of the Department of Transportation shall incur a civil penalty of not more than \$1,000 for every such violation.

(b) Every person who violates or who procures, aids or abets in the violation of any order, rule or decision of the department promulgated pursuant to ORS 824.052 (1), 824.056 (1), 824.068, 824.082 (1) or 824.208 shall incur a civil penalty of not more than \$1,000 for every such violation.

(2) Each such violation shall be a separate offense and in case of a continuing violation every day's continuance is a separate violation. Every act of commission or omission that procures, aids or abets in the violation is a violation under subsection (1) of this section and subject to the penalty provided in subsection (1) of this section.

(3) Civil penalties imposed under subsection (1) of this section shall be imposed in the manner provided in ORS 183.745.

(4) The department may reduce any penalty provided for in subsection (1) of this section on such terms as the department considers proper if:

(a) The defendant admits the violations alleged in the notice and makes timely request for reduction of the penalty; or

(b) The defendant submits to the department a written request for reduction of the penalty within 15 days from the date the penalty order is served.

GENERAL REPEALS

SECTION 82. ORS 184.631 and 824.104 and sections 2 and 3, chapter 24, Oregon Laws 2018, are repealed.

CAPTIONS

SECTION 83. The unit and section captions used in this 2021 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent

1 in the enactment of this 2021 Act.

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EFFECTIVE DATE

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5 SECTION 84. This 2021 Act takes effect on the 91st day after the
6 date on which the 2021 regular session of the Eighty-first Legislative
7 Assembly adjourns sine die.

8
