

Enrolled
House Bill 2118

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CHAPTER

AN ACT

Relating to consumer price index; creating new provisions; and amending ORS 58.187, 90.490, 90.493, 100.305, 196.815, 196.818, 200.057, 238A.155, 321.017, 327.006, 332.405, 339.133, 442.851, 459.310, 459A.125, 461.543, 468A.276, 470.640, 471.175, 471.750, 565.447, 616.686, 616.723, 671.540, 735.406, 776.357, 776.810, 811.720, 811.745 and 830.110 and section 2, chapter 2, Oregon Laws 2017, and section 3, chapter 390, Oregon Laws 2017.

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

SECTION 1. Section 3, chapter 390, Oregon Laws 2017, is amended to read:

Sec. 3. (1) On January 1, 2021, the Oregon Department of Administrative Services shall determine the cumulative percentage increase or decrease in the cost of living for the previous four years, based on changes in the [*Portland-Salem, OR-WA, Consumer Price Index for All Urban Consumers for All Items*] **Consumer Price Index for All Urban Consumers, West Region (All Items)**, as published by the Bureau of Labor Statistics of the United States Department of Labor. The Oregon Department of Administrative Services shall adjust the fees under ORS 21.300 (1) and (4) as follows:

(a) If the cost of living has increased, the department shall adjust the fees by multiplying the fee amounts by the percentage amount determined under this subsection. The department shall round the adjusted fees up to the nearest \$1. The adjusted fees become effective on July 1, 2021, and apply to all fees incurred on or after July 1, 2021.

(b) If the cost of living has not increased, the department may not change the fees.

(2) After the department adjusts the fees under ORS 21.300 (1) and (4) as provided in subsection (1) of this section, the department shall promptly notify the Oregon State Sheriffs' Association of the adjusted fees.

NOTE: Sections 2 through 4 were deleted by amendment. Subsequent sections were not renumbered.

SECTION 5. ORS 58.187 is amended to read:

58.187. (1) For the purpose of revising the amounts of the limitation on joint and several liability described in ORS 58.185 (5) and (8) to reflect the effects of inflation or deflation, the Secretary of State shall multiply the amounts under ORS 58.185 (5) and (8) by the inflation factor described in this section every six years. The six-year cycle shall begin January 1, 1994. The Secretary of State shall round the amount to the nearest \$50,000 and publish the revised amount as a rule not later than February 1 following the end of the six-year cycle. The revised limitation shall take effect February 1 and apply for the next six years.

(2) For purposes of this section[:],

[(a)] the inflation factor shall be a number determined by dividing the [June 30] Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor, as of June 30 immediately preceding the calendar year in which the adjustment shall take effect, by the [December 31] Portland Consumer Price Index for All Urban Consumers for All Items, using the 1982-1984 base of 100, [for] as of December 31, 1993.

[(b) The "Consumer Price Index" is the Portland Consumer Price Index for All Urban Consumers for All Items, using the 1982-1984 base of 100, as published by the Bureau of Labor Statistics of the United States Department of Labor. If the index is discontinued or no longer published at least semi-annually, the Secretary of State shall select an alternative index that, in the discretion of the Secretary of State, reasonably approximates changes in consumer spending power in the Portland, Oregon, metropolitan area.]

SECTION 6. ORS 90.490 is amended to read:

90.490. (1) A tenant may bring an action against a building landlord if for the purpose of avoiding, or assisting a declarant of a conversion condominium in avoiding, the requirements under ORS 100.301 to 100.320:

(a) Within one year before the declarant records the declaration under ORS 100.100, the landlord gives a tenant a 30-day notice without stated cause; or

(b) Within one year before the declarant records the declaration under ORS 100.100, the landlord increases the rent in excess of the percentage increase in the [Portland-Salem Consumer Price Index for All Urban Consumers for All Items as reported by the United States Bureau of Labor Statistics] **Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor.**

(2) If a court finds that a landlord has taken an action described in subsection (1) of this section for the purpose of avoiding, or assisting a declarant of a conversion condominium in avoiding, the requirements under ORS 100.301 to 100.320, the court may award the tenant the greater of:

(a) Six times the monthly rent for the dwelling unit; or

(b) Twice the actual damages to the tenant arising out of the termination or rent increase.

(3) The time allowed under ORS 12.125 to commence an action under this section begins on the date the declarant records the declaration under ORS 100.100.

SECTION 7. ORS 90.493 is amended to read:

90.493. (1) The landlord of a building for which a declarant of a conversion condominium has issued the tenant a notice of conversion under ORS 100.305 may not:

(a) Give the tenant a 30-day notice without stated cause that causes the tenancy to terminate on a date that is prior to the end of the 120-day period described in ORS 100.305 or the 60-day period described in ORS 100.310; or

(b) Increase the rent for the dwelling unit in excess of:

(A) Any scheduled increase provided for in a written rental agreement; or

(B) A percentage equal to the percentage increase in the [Portland-Salem Consumer Price Index for All Urban Consumers for All Items as reported by the United States Bureau of Labor Statistics] **Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor.**

(2) A tenant may bring an action against a landlord that violates subsection (1) of this section to recover the greater of:

(a) Six times the monthly rent for the dwelling unit; or

(b) Twice the actual damages to the tenant arising out of the termination.

SECTION 8. ORS 100.305 is amended to read:

100.305. (1) A declarant of a conversion condominium shall give each of the existing tenants of any building which the declarant intends to submit to the provisions of this chapter notice of the conversion at least 120 days before the conversion condominium is submitted to the provisions of this chapter. Thereafter, until the property is submitted to the provisions of this chapter, the

declarant shall provide a copy of such notice to any new tenant before the commencement of the tenancy. The notice of conversion shall:

(a) State that the declarant intends to create a conversion condominium and include general information relating to the nature of condominium ownership.

(b) State that the notice does not constitute a notice to terminate the tenancy.

(c) State whether there will be a substantial alteration of the physical layout of the unit.

(d) State whether the declarant intends to offer the unit for sale and, if so:

(A) Set forth the rights of the tenant under ORS 100.310 (1) to (3), including the time available for the declarant to make an offer to sell and for the tenant to respond;

(B) Set forth a good faith estimate of the approximate price range for which the unit will be offered for sale to the tenant under ORS 100.310 (1) and (2);

(C) Set forth a good faith estimate of the monthly operational, maintenance and any other common expenses or assessments appertaining to the unit;

(D) State that financial assistance for purchasing the unit may be available from a local governing body, the Housing and Community Services Department or a regional housing center;

(E) Give contact information for the local regional housing center or, if no regional housing center exists, for the Housing and Community Services Department; and

(F) State that the landlord may not terminate the tenancy without cause if the termination would take effect before the end of the 120-day period described in this subsection or the 60-day period described in ORS 100.310.

(e) Include information in substantially the following form:

NOTICE OF RENT INCREASE

RESTRICTIONS

During the 120 days following the receipt of this notice, your landlord may increase your rent only as follows:

If your rental agreement says that your rent will increase on a particular date and by a definite amount, the landlord may increase the rent as provided in your rental agreement.

If your rental agreement allows rent increases but does not say that your rent will increase on a particular date and by a definite amount, the landlord may not increase your rent by a percentage that is more than the percentage increase in the general cost of living. An increase in the general cost of living is measured by the percentage increase in the *[Portland-Salem Consumer Price Index for All Urban Consumers for All Items as reported by the United States Bureau of Labor Statistics]* **Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor.**

(f) Be hand delivered to the dwelling unit of the tenant or sent to the tenant at the address of the dwelling unit by certified mail, return receipt requested.

(2) A notice of conversion given under subsection (1) of this section:

(a) Shall be for the sole purpose of providing the tenant with general information regarding the anticipated cost of acquisition of the unit and estimated monthly expenses.

(b) Does not obligate the declarant to submit the property to the provisions of this chapter.

(c) Does not constitute an offer to sell the unit to the tenant or an offer to sell at a particular price.

(d) Is not a limitation on monthly common expenses or assessments.

(3) The notice of conversion given under subsection (1) of this section must be delivered to the tenant at least 30 days prior to the presentation of an offer to sell under ORS 100.310 (1) and (2).

(4) The declarant shall send a copy of the notice of conversion to the mayor of the city in which the conversion condominium is located or, if the conversion condominium is not located in a city, to the county commission or county court.

(5) A notice of conversion that does not contain the information required by subsection (1)(a) to (e) of this section, or that is not sent to the mayor, county commission or county court as required by subsection (4) of this section, does not begin the 120-day period required by subsection (1) of this section. Notwithstanding any prior delivery of a deficient notice of conversion, the 120-day period required by subsection (1) of this section does not begin until the date a valid notice is delivered. A tenant, mayor, county commission or county court entitled to notice may bring an action for injunctive relief to prevent the conversion until the declarant has complied with the notice requirement.

(6) The declaration may be recorded prior to the end of the 120-day period required under subsection (1) of this section with the written consent of all tenants who received the notice of conversion less than 120 days before the date of such consent.

(7) The requirement under subsection (1) of this section to provide a copy of the notice of conversion to new tenants shall not extend the 120-day period nor shall such tenant's consent be required to record the declaration prior to the end of the 120-day period as provided for under subsection (6) of this section.

(8) A notice of conversion does not constitute a notice to terminate the tenancy.

SECTION 9. ORS 196.815 is amended to read:

196.815. (1) A person who is required to have a permit to remove material from the bed or banks or fill any waters of this state shall file a written application with the Director of the Department of State Lands for each individual project before performing any removal or fill.

(2)(a) Except as otherwise may be provided by the rules of the Department of State Lands for removal or fill permits related to ocean renewable energy facilities as defined in ORS 274.870, each application under subsection (1) of this section must be accompanied by a base fee in accordance with the following schedule:

(A) For a removal by a private operator, or a person contracting to perform services for a private operator, \$85.

(B) For a removal by a public body, \$250.

(C) For a removal by a commercial operator, \$250.

(D) For a fill by a private operator, or a person contracting to perform services for a private operator, \$250.

(E) For a fill by a public body, \$620.

(F) For a fill by a commercial operator, \$620.

(G) For erosion-flood repair, including riprap, no fee.

(b) In addition to the base fee for removal established under paragraph (a) of this subsection, each applicant shall also pay as part of the application fee the following fee based on the volume of removal material:

(A) Less than 500 cubic yards, no volume fee.

(B) 500 to less than 5,000 cubic yards, \$125.

(C) 5,000 to less than or equal to 50,000 cubic yards, \$250.

(D) Over 50,000 cubic yards, \$375.

(c) In addition to the base fee for fill established under paragraph (a) of this subsection, each applicant shall also pay as part of the application fee the following fee based on the volume of fill material:

(A) Less than 500 cubic yards, no volume fee.

(B) 500 to less than 3,000 cubic yards, \$125.

(C) 3,000 to less than or equal to 10,000 cubic yards, \$250.

(D) Over 10,000 cubic yards, \$375.

(d) The department may establish by rule a volume-based fee for the commercial removal of sand and gravel from the waters of this state for use in administering the provisions of the fill and removal law in this state.

(e) For the purposes of this subsection:

(A) "Private operator" means any person undertaking a project for exclusively a nonincome-producing and nonprofit purpose;

(B) "Public body" means federal, state, and local governmental bodies, unless specifically exempted by law, engaged in projects for the purpose of providing free public services;

(C) "Commercial operator" means any person undertaking a project having financial profit as a goal;

(D) "Riprap" means the facing of a streambank with rock or similar substance to control erosion in accordance with rules adopted by the department; and

(E) "Erosion-flood repair" means riprap or any other work necessary to preserve existing facilities and land from flood and high streamflows, in accordance with regulations promulgated by the department.

(3) For each application that involves both removal and filling, the application fee assessed shall be either for removal or filling, whichever is higher according to the fee schedule in subsection (2) of this section.

(4) The department may waive the fees specified in subsection (2) of this section for a permit that will be used to perform a voluntary habitat restoration project.

(5) A person who receives an emergency authorization under ORS 196.810 to remove material from the beds or banks of any waters of this state or to fill any waters of this state shall, within 45 days after receiving the authorization, submit a fee to the department calculated in the manner provided under this section for permit applications.

(6) Each holder of a material removal or fill permit shall pay a fee during the term of the permit in accordance with the schedule set forth in subsection (2) of this section, except that the applicant shall pay only the base fee. For multiyear permits valid over a period of more than one year, the department may assess a one-time fee that covers all fees due under subsection (2) of this section for the period of the permit. The permit shall be suspended during any period of delinquency of payment as though no permit was applied for. Notwithstanding this subsection the director may, before granting a renewal of the permit, require the permittee to show that the continued exercise of the permit is consistent with the protection, conservation and best use of the water resources of this state.

(7) Fees received under this section shall be credited to the Common School Fund for use by the department in administration of ORS 196.600 to 196.905.

(8) The director shall issue an order revising the fees specified in this section on January 1 of each year, beginning in 2009, based on changes in the [*Portland-Salem, OR-WA Consumer Price Index for All Urban Consumers for All Items*] **Consumer Price Index for All Urban Consumers, West Region (All Items)**, as published by the Bureau of Labor Statistics of the United States Department of Labor. The director shall round the amount of each fee to the nearest dollar. The revised fees shall take effect January 1 and apply for that calendar year.

SECTION 10. ORS 196.818 is amended to read:

196.818. (1) A person or governmental body requesting a permit under ORS 196.810 shall submit a wetland delineation report to the Department of State Lands for a determination of:

(a) Whether waters of this state are present on a specific land parcel;

(b) Where the boundaries of waters of this state are located on a land parcel; or

(c) Whether the waters of this state or a proposed activity in the waters of this state is subject to permit requirements.

(2) A person or governmental body must pay a nonrefundable fee of \$350 to the department when submitting a wetland delineation report under subsection (1) of this section.

(3) The department shall:

(a) Review the wetland delineation report submitted under subsection (1) of this section no more than 120 days after the date on which the person or governmental body submits the report; and

(b) Give priority to the review of a wetland delineation report that is submitted with or in advance of an application for a permit required under ORS 196.810 if the permit would authorize activities on the land parcel that is the subject of the wetland delineation report.

(4) All determinations made by the department under subsection (1)(a) and (b) of this section:

(a) Must be made by a person with expertise in wetlands hydrology, soil and vegetation; and

(b) Expire five years after the date on which a final determination is made.

(5) Five years after the date on which a final determination has been made under subsection (1)(a) or (b) of this section, if the owner of the land parcel that is the subject of the determination is conducting activities that require a permit under ORS 196.810, the landowner shall conduct a review of the land parcel. If the baseline conditions leading to the final determination have sufficiently changed to require a new determination, then the landowner shall submit a new wetland delineation report under subsection (1) of this section. If the baseline conditions leading to the final determination have not sufficiently changed to require a new determination, then the final determination of the department, notwithstanding subsection (4)(b) of this section, may be extended by five years.

(6) The department may waive or suspend the requirements of this section for the purpose of issuing an emergency authorization under ORS 196.810.

(7) The fee described in subsection (2) of this section is in addition to any permit application fee required under ORS 196.815. A person or governmental body submitting a revised report to replace a previously rejected report must pay an additional nonrefundable fee of \$100.

(8) Delineations made pursuant to this section, and determinations made under this section, must comport with:

(a) The United States Army Corps of Engineers Wetlands Delineation Manual of 1987; and

(b) Any subsequent federal supplements to the manual or applicable guidance documents issued by the United States Army Corps of Engineers, including guidance documents for the area in which a delineation will take place, as adopted by rule of the Director of the Department of State Lands. Such rules must comply with those federal supplements and guidance documents.

(9) The director shall issue an order revising the fee specified in subsection (2) of this section on January 1 of each year, based on changes in the [*Portland-Salem, OR-WA Consumer Price Index for All Urban Consumers for All Items*] **Consumer Price Index for All Urban Consumers, West Region (All Items)**, as published by the Bureau of Labor Statistics of the United States Department of Labor. The director shall round the amount to the nearest dollar. The revised fee shall take effect January 1 and apply for that calendar year.

(10) Fees received under this section shall be credited to the Common School Fund for use by the department in administration of ORS 196.600 to 196.905.

SECTION 11. ORS 200.057 is amended to read:

200.057. (1) A business may be certified as an emerging small business by the Oregon Business Development Department for up to 12 years and may be:

(a) Designated a tier one firm for up to six years unless the business no longer qualifies as a tier one firm.

(b) Designated a tier two firm for up to six years unless the business no longer qualifies as a tier two firm.

(2) The department shall adjust annually the amount of the average annual gross receipts required to qualify as a tier one firm or a tier two firm using the most recent three-year average of the [*Portland-Salem Consumer Price Index for All Urban Consumers for All Items, as reported by the United States Bureau of Labor Statistics*] **Consumer Price Index for All Urban Consumers, West Region (All Items)**, as published by the Bureau of Labor Statistics of the United States Department of Labor.

(3) Notwithstanding the time limits established by subsection (1) of this section, if a tier one firm provides compelling information showing, in the judgment of the department, that the firm has not

been afforded an opportunity to bid on emerging small business projects during a year of eligibility, the department shall extend the tier one designation of the firm for one year. A tier one firm may receive the extension described in this subsection only once.

SECTION 12. ORS 238A.155 is amended to read:

238A.155. (1) Notwithstanding any other provision of ORS 238A.100 to 238A.250, an active member of the pension program described in subsection (2) of this section who becomes disabled shall accrue retirement credit and hours of service credit for vesting purposes for the period during which the member is disabled.

(2) The provisions of this section apply only to:

(a) A member who has accrued 10 years or more of retirement credit before the member becomes disabled; or

(b) A member who becomes disabled by reason of injury or disease sustained while in the actual performance of duty.

(3) Retirement credit accrues under this section only for as long as the member remains disabled or until the member reaches the normal retirement age under ORS 238A.160.

(4) If a disabled member does not return to employment with a participating public employer after the period of disability, the member shall receive a pension under ORS 238A.180, 238A.185 or 238A.190 upon retirement based on an adjusted salary. The adjusted salary shall be the salary paid to the disabled member on the date the member left active employment with the participating public employer by reason of disability, adjusted for each year after the member left employment and before the member's effective date of retirement to reflect cost-of-living changes, based on the [*Portland-Salem, OR-WA, Consumer Price Index for All Urban Consumers for All Items,*] **Consumer Price Index for All Urban Consumers, West Region (All Items)**, as published by the Bureau of Labor Statistics of the United States Department of Labor. Adjustments under this subsection may not exceed a two percent increase or decrease for any year. An adjustment shall be made under this subsection only for calendar years in which the member is disabled for at least six months during the year.

(5) A pension program member is considered to be disabled for the purpose of this section if:

(a) The member is found, after being examined by one or more physicians selected by the Public Employees Retirement Board, to be mentally or physically incapacitated for an extended duration and unable to perform any work for which qualified, by reason of injury or disease that was not intentionally self-inflicted; or

(b) The member receives workers' compensation benefits by reason of injury or disease that was sustained while in actual performance of duty with a participating public employer and that was not intentionally self-inflicted and returns to employment with a participating public employer after the period of disability.

SECTION 13. ORS 321.017 is amended to read:

321.017. (1) In addition to the taxes levied under ORS 321.015 (1) to (4), there hereby is levied a privilege tax upon taxpayers on the harvesting of all merchantable forest products harvested on forestlands in the amount provided in subsection (2) of this section.

(2) The rate of tax levied in subsection (1) of this section shall be established annually at the beginning of each calendar year by the board of directors of the Oregon Forest Resources Institute, at a rate not to exceed 75 cents per thousand feet, board measure, adjusted annually for inflation since 1991 based on the [*Consumer Price Index (Portland area -- all items)*] **Consumer Price Index for All Urban Consumers, West Region (All Items)**, as published by the Bureau of Labor Statistics of the United States Department of Labor [*for the Portland, Oregon, area*].

(3) The tax shall be measured by and be applicable to each per thousand feet, board measure, and such shall be subject to and determined by the procedures and provisions of ORS 321.015 (5) and (6).

(4) The tax levied by subsection (1) of this section shall be due and payable to the Department of Revenue in the manner and procedure, including penalties and interest, as set forth for the collection of the privilege tax in ORS 321.005 to 321.185.

(5) The revenue from the tax levied by subsection (1) of this section shall be remitted to the State Treasurer who shall deposit it in a suspense account established under ORS 321.145 (1). After payment of refunds, which shall be paid in the same manner as other forest products harvest tax refunds are paid in ORS 321.145 (2), the balance of the additional tax imposed under subsection (1) of this section shall be deposited in the Oregon Forest Resources Institute Fund.

SECTION 14. ORS 327.006 is amended to read:

327.006. As used in ORS 327.006 to 327.133, 327.348 and 327.731 and sections 1 to 3, chapter 735, Oregon Laws 2013:

(1) "Aggregate days membership" means the sum of days present and absent, according to the rules of the State Board of Education, of all resident pupils when school is actually in session during a certain period. The aggregate days membership of kindergarten pupils shall be calculated on the basis of a half-day program for half-day kindergarten and on the basis of a full-day program for full-day kindergarten.

(2)(a) "Approved transportation costs" means those costs as defined by rule of the State Board of Education and is limited to those costs attributable to transporting or room and board provided in lieu of transporting:

(A) Elementary school students who live at least one mile from school;

(B) Secondary school students who live at least 1.5 miles from school;

(C) Any student required to be transported for health or safety reasons, according to supplemental plans from districts that have been approved by the state board identifying students who are required to be transported for health or safety reasons, including special education;

(D) Preschool children with disabilities requiring transportation for early intervention services provided pursuant to ORS 343.224 and 343.533;

(E) Students who require payment of room and board in lieu of transportation;

(F) A student transported from one school or facility to another school or facility when the student attends both schools or facilities during the day or week; and

(G) Students participating in school-sponsored field trips that are extensions of classroom learning experiences.

(b) "Approved transportation costs" does not include the cost of constructing boarding school facilities.

(3) "Average daily membership" or "ADM" means the aggregate days membership of a school during a certain period divided by the number of days the school was actually in session during the same period. However, if a district school board adopts a class schedule that operates throughout the year for all or any schools in the district, average daily membership shall be computed by the Department of Education so that the resulting average daily membership will not be higher or lower than if the board had not adopted such schedule.

[(4) "*Consumer Price Index*" means the *Consumer Price Index for All Urban Consumers of the Portland, Oregon, Metropolitan Statistical Area, as compiled by the United States Department of Labor, Bureau of Labor Statistics.*]

[(5)] (4) "Kindergarten" means a kindergarten program that conforms to the standards and rules adopted by the State Board of Education.

[(6)] (5) "Net operating expenditures" means the sum of expenditures of a school district in kindergarten through grade 12 for administration, instruction, attendance and health services, operation of plant, maintenance of plant, fixed charges and tuition for resident students attending in another district, as determined in accordance with the rules of the State Board of Education, but net operating expenditures does not include transportation, food service, student body activities, community services, capital outlay, debt service or expenses incurred for nonresident students.

[(7)] (6)(a) "Resident pupil" means any pupil:

(A) Whose legal school residence is within the boundaries of a school district reporting the pupil, if the district is legally responsible for the education of the pupil, except that "resident pupil" does not include a pupil who pays tuition or for whom the parent pays tuition or for whom the district does not pay tuition for placement outside the district; or

(B) Whose legal residence is not within the boundaries of the district reporting the pupil but who attends school in the district with the written consent of the district school board where the school is located as provided by ORS 339.133 (5)(a).

(b) A pupil is not considered to be a resident pupil under paragraph (a)(A) of this subsection if the pupil is attending school in another school district pursuant to a contract under ORS 339.125 and in the prior year was considered to be a resident pupil in another school district under paragraph (a)(B) of this subsection. The pupil shall continue to be considered a resident of another school district under paragraph (a)(B) of this subsection.

(c) A pupil is not considered to be a resident pupil under paragraph (a)(B) of this subsection if the pupil is attending school in a school district pursuant to ORS 339.133 (5)(a) and in the prior year was considered to be a resident pupil under paragraph (a)(A) of this subsection because the pupil was attending school in another school district pursuant to a contract under ORS 339.125. The pupil shall continue to be considered a resident pupil under paragraph (a)(A) of this subsection.

(d) "Resident pupil" includes a pupil who is:

(A) Admitted to a school district under ORS 339.115 (7); or

(B) Considered a resident under ORS 339.133 (5)(b).

[8] (7) "Standard school" means a school meeting the standards set by the rules of the State Board of Education.

[9] (8) "Tax" and "taxes" includes all taxes on property, excluding exempt bonded indebtedness, as those terms are defined in ORS 310.140.

SECTION 15. ORS 327.006, as amended by section 5, chapter 735, Oregon Laws 2013, and section 9, chapter 7, Oregon Laws 2016, is amended to read:

327.006. As used in ORS 327.006 to 327.133, 327.348 and 327.731:

(1) "Aggregate days membership" means the sum of days present and absent, according to the rules of the State Board of Education, of all resident pupils when school is actually in session during a certain period. The aggregate days membership of kindergarten pupils shall be calculated on the basis of a half-day program for half-day kindergarten and on the basis of a full-day program for full-day kindergarten.

(2)(a) "Approved transportation costs" means those costs as defined by rule of the State Board of Education and is limited to those costs attributable to transporting or room and board provided in lieu of transporting:

(A) Elementary school students who live at least one mile from school;

(B) Secondary school students who live at least 1.5 miles from school;

(C) Any student required to be transported for health or safety reasons, according to supplemental plans from districts that have been approved by the state board identifying students who are required to be transported for health or safety reasons, including special education;

(D) Preschool children with disabilities requiring transportation for early intervention services provided pursuant to ORS 343.224 and 343.533;

(E) Students who require payment of room and board in lieu of transportation;

(F) A student transported from one school or facility to another school or facility when the student attends both schools or facilities during the day or week; and

(G) Students participating in school-sponsored field trips that are extensions of classroom learning experiences.

(b) "Approved transportation costs" does not include the cost of constructing boarding school facilities.

(3) "Average daily membership" or "ADM" means the aggregate days membership of a school during a certain period divided by the number of days the school was actually in session during the same period. However, if a district school board adopts a class schedule that operates throughout the year for all or any schools in the district, average daily membership shall be computed by the Department of Education so that the resulting average daily membership will not be higher or lower than if the board had not adopted such schedule.

[(4) “Consumer Price Index” means the Consumer Price Index for All Urban Consumers of the Portland, Oregon, Metropolitan Statistical Area, as compiled by the United States Department of Labor, Bureau of Labor Statistics.]

[(5)] (4) “Kindergarten” means a kindergarten program that conforms to the standards and rules adopted by the State Board of Education.

[(6)] (5) “Net operating expenditures” means the sum of expenditures of a school district in kindergarten through grade 12 for administration, instruction, attendance and health services, operation of plant, maintenance of plant, fixed charges and tuition for resident students attending in another district, as determined in accordance with the rules of the State Board of Education, but net operating expenditures does not include transportation, food service, student body activities, community services, capital outlay, debt service or expenses incurred for nonresident students.

[(7)] (6)(a) “Resident pupil” means any pupil:

(A) Whose legal school residence is within the boundaries of a school district reporting the pupil, if the district is legally responsible for the education of the pupil, except that “resident pupil” does not include a pupil who pays tuition or for whom the parent pays tuition or for whom the district does not pay tuition for placement outside the district; or

(B) Whose legal residence is not within the boundaries of the district reporting the pupil but who attends school in the district with the written consent of the district school board where the school is located as provided by ORS 339.133 (5)(a).

(b) A pupil is not considered to be a resident pupil under paragraph (a)(A) of this subsection if the pupil is attending school in another school district pursuant to a contract under ORS 339.125 and in the prior year was considered to be a resident pupil in another school district under paragraph (a)(B) of this subsection. The pupil shall continue to be considered a resident of another school district under paragraph (a)(B) of this subsection.

(c) A pupil is not considered to be a resident pupil under paragraph (a)(B) of this subsection if the pupil is attending school in a school district pursuant to ORS 339.133 (5)(a) and in the prior year was considered to be a resident pupil under paragraph (a)(A) of this subsection because the pupil was attending school in another school district pursuant to a contract under ORS 339.125. The pupil shall continue to be considered a resident pupil under paragraph (a)(A) of this subsection.

(d) “Resident pupil” includes a pupil who is:

(A) Admitted to a school district under ORS 339.115 (7); or

(B) Considered a resident under ORS 339.133 (5)(b).

[(8)] (7) “Standard school” means a school meeting the standards set by the rules of the State Board of Education.

[(9)] (8) “Tax” and “taxes” includes all taxes on property, excluding exempt bonded indebtedness, as those terms are defined in ORS 310.140.

SECTION 16. ORS 332.405 is amended to read:

332.405. (1) The district school board shall provide transportation for pupils or combinations of pupils and other persons to and from school-related activities where required by law or when considered advisable by the board.

(2) The board may furnish board and room for pupils in lieu of transportation when reasonable board and room can be provided at equal or less expense than transportation. The board may also provide board and room in a facility that existed on July 1, 1998, or a replacement facility for that facility, for pupils attending a district school as described in ORS 327.006 [(7)(a)(B)] **(6)(a)(B)** or through a power of attorney authorized under ORS 109.056 (2). This subsection does not apply to a pupil who attends a district school through a power of attorney and who is a foreign exchange student enrolled in a school under a cultural exchange program.

(3) The transportation costs or expenses for board and room shall be paid from funds available to the district for that purpose.

(4) The district school board may expend district funds to improve or provide for pedestrian facilities off district property if the board finds that the expenditure reduces transportation costs of the district and enhances the safety of pupils going to and from schools of the district.

SECTION 17. ORS 339.133, as amended by section 6, chapter 690, Oregon Laws 2017, and section 19, chapter 72, Oregon Laws 2018, is amended to read:

339.133. (1) As used in this section:

(a) "Foster care" means substitute care for children placed by the Department of Human Services or a tribal child welfare agency away from their parents and for whom the department or agency has placement and care responsibility, including placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions and preadoptive homes.

(b)(A) "Person in parental relationship" means an adult who has physical custody of an individual or resides in the same household as the individual, interacts with the individual daily, provides the individual with food, clothing, shelter and incidental necessities and provides the individual with necessary care, education and discipline.

(B) "Person in parental relationship" does not mean a person with a power of attorney or other written delegation of parental responsibilities if the person does not have other evidence of a parental relationship.

(c) "School district of origin" means the school district where an individual was a resident before:

(A) The individual was placed into foster care; or

(B) The foster care placement of the individual changed.

(d) "School of origin" means the school that an individual attended before:

(A) The individual was placed into foster care; or

(B) The foster care placement of the individual changed.

(2)(a) Except as provided in subsections (3) to (5) of this section, individuals between the ages of 4 and 18 shall be considered resident for school purposes in the school district in which their parents, their guardians or persons in parental relationship to them reside.

(b) Nonemancipated individuals between the ages of 4 and 18 living outside the geographic area of the school district for such reasons as attending college, military service, hospital confinement or employment away from home shall be considered resident in the district in which their parents, their guardians or persons in parental relationship to them reside.

(c) Individuals living temporarily in a school district for the primary purpose of attending a district school may not be considered resident in the district in which they are living temporarily, but shall be considered resident in the district in which they, their parents, their guardians or persons in parental relationship to them reside.

(3) Individuals considered legally emancipated from their parents shall be considered resident in the district in which they actually reside, irrespective of the residence of their parents, their guardians or persons in parental relationship.

(4)(a) An individual who is between the ages of 4 and 21 and who is placed in foster care shall be considered a resident of:

(A) The school district of origin; or

(B) The school district where the individual resides due to placement by the Department of Human Services or a tribal child welfare agency if a juvenile court determines it is not in the best interest of the individual to continue attending the school of origin or any other school in the school district of origin, based on consideration of all factors relating to the individual's best interests.

(b) If a juvenile court makes a determination that it is not in the best interest of the individual to continue attending the school of origin, the individual shall be immediately enrolled in a new school, even if the individual is unable to produce records normally required for enrollment.

(c) Individuals who are residents of their school district of origin pursuant to paragraph (a)(A) of this subsection shall:

(A) Remain in the individual's school district of origin and, if applicable, the individual's school of origin for the duration of the individual's time in foster care; and

(B) Be provided, free of charge, transportation between the individual's home and the individual's school district of origin or, if applicable, the individual's school of origin.

(d) The Department of Education, the Department of Human Services, tribal child welfare agencies and school districts shall collaborate to ensure that the provisions of this subsection are implemented.

(5)(a) Except as provided in ORS 327.006 [(7)] (6) and 335.090, an individual whose legal residence is not within the district but who attends school in the district is considered a resident in the district in which the individual attends school if the individual receives:

(A) Written consent from both of the affected district school boards as provided by policies adopted by the boards; or

(B) Written consent from the district school board for the district in which the school is located as provided by section 9, chapter 718, Oregon Laws 2011.

(b) An individual whose legal residence is not within the district but who attends school in the district is considered a resident in the district in which the individual attends school if:

(A) The legal residence of the individual had been in the district in which the individual attends school before a boundary change was made to the district;

(B) The legal residence of the individual is no longer in the district in which the individual attends school because of the boundary change; and

(C) The individual has had the same legal residence and has continuously been enrolled in a school in the district since the boundary change.

(6)(a) Individuals who are foreign exchange students and who are residing in Oregon in a dormitory operated by a school district are considered to be residents of the school district in which the dormitory is located.

(b) For the purpose of this subsection:

(A) An individual may not be considered to be a foreign exchange student for more than one school year.

(B) An individual may be considered to be a resident of a school district as provided by this subsection only if, for the 2010-2011 school year, the school district had foreign exchange students who would have been considered residents under the provisions of this subsection.

(C) The number of individuals who may be considered residents under the provisions of this subsection may not increase relative to the number who would have been considered residents under the provisions of this subsection for the 2010-2011 school year.

(c) As used in this subsection, "foreign exchange student" means an individual who attends school in Oregon under a cultural exchange program and whose parent, guardian or person in parental relationship resides in another country.

SECTION 18. ORS 339.133, as amended by section 6, chapter 690, Oregon Laws 2017, and sections 19 and 21, chapter 72, Oregon Laws 2018, is amended to read:

339.133. (1) As used in this section:

(a) "Foster care" means substitute care for children placed by the Department of Human Services or a tribal child welfare agency away from their parents and for whom the department or agency has placement and care responsibility, including placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions and preadoptive homes.

(b)(A) "Person in parental relationship" means an adult who has physical custody of an individual or resides in the same household as the individual, interacts with the individual daily, provides the individual with food, clothing, shelter and incidental necessities and provides the individual with necessary care, education and discipline.

(B) "Person in parental relationship" does not mean a person with a power of attorney or other written delegation of parental responsibilities if the person does not have other evidence of a parental relationship.

(c) "School district of origin" means the school district where an individual was a resident before:

(A) The individual was placed into foster care; or

(B) The foster care placement of the individual changed.

(d) "School of origin" means the school that an individual attended before:

- (A) The individual was placed into foster care; or
- (B) The foster care placement of the individual changed.

(2)(a) Except as provided in subsections (3) to (5) of this section, individuals between the ages of 4 and 18 shall be considered resident for school purposes in the school district in which their parents, their guardians or persons in parental relationship to them reside.

(b) Nonemancipated individuals between the ages of 4 and 18 living outside the geographic area of the school district for such reasons as attending college, military service, hospital confinement or employment away from home shall be considered resident in the district in which their parents, their guardians or persons in parental relationship to them reside.

(c) Individuals living temporarily in a school district for the primary purpose of attending a district school may not be considered resident in the district in which they are living temporarily, but shall be considered resident in the district in which they, their parents, their guardians or persons in parental relationship to them reside.

(3) Individuals considered legally emancipated from their parents shall be considered resident in the district in which they actually reside, irrespective of the residence of their parents, their guardians or persons in parental relationship.

(4)(a) An individual who is between the ages of 4 and 21 and who is placed in foster care shall be considered a resident of:

(A) The school district of origin; or

(B) The school district where the individual resides due to placement by the Department of Human Services or a tribal child welfare agency if a juvenile court determines it is not in the best interest of the individual to continue attending the school of origin or any other school in the school district of origin, based on consideration of all factors relating to the individual's best interests.

(b) If a juvenile court makes a determination that it is not in the best interest of the individual to continue attending the school of origin, the individual shall be immediately enrolled in a new school, even if the individual is unable to produce records normally required for enrollment.

(c) Individuals who are residents of their school district of origin pursuant to paragraph (a)(A) of this subsection shall:

(A) Remain in the individual's school district of origin and, if applicable, the individual's school of origin for the duration of the individual's time in foster care; and

(B) Be provided, free of charge, transportation between the individual's home and the individual's school district of origin or, if applicable, the individual's school of origin.

(d) The Department of Education, the Department of Human Services, tribal child welfare agencies and school districts shall collaborate to ensure that the provisions of this subsection are implemented.

(5)(a) Except as provided in ORS 327.006 [(7)] (6) and 335.090, an individual whose legal residence is not within the district but who attends school in the district is considered a resident in the district in which the individual attends school if the individual receives written consent from both of the affected district school boards as provided by policies adopted by the boards.

(b) An individual whose legal residence is not within the district but who attends school in the district is considered a resident in the district in which the individual attends school if:

(A) The legal residence of the individual had been in the district in which the individual attends school before a boundary change was made to the district;

(B) The legal residence of the individual is no longer in the district in which the individual attends school because of the boundary change; and

(C) The individual has had the same legal residence and has continuously been enrolled in a school in the district since the boundary change.

(6)(a) Individuals who are foreign exchange students and who are residing in Oregon in a dormitory operated by a school district are considered to be residents of the school district in which the dormitory is located.

(b) For the purpose of this subsection:

(A) An individual may not be considered to be a foreign exchange student for more than one school year.

(B) An individual may be considered to be a resident of a school district as provided by this subsection only if, for the 2010-2011 school year, the school district had foreign exchange students who would have been considered residents under the provisions of this subsection.

(C) The number of individuals who may be considered residents under the provisions of this subsection may not increase relative to the number who would have been considered residents under the provisions of this subsection for the 2010-2011 school year.

(c) As used in this subsection, "foreign exchange student" means an individual who attends school in Oregon under a cultural exchange program and whose parent, guardian or person in parental relationship resides in another country.

SECTION 19. ORS 339.133, as amended by section 6, chapter 690, Oregon Laws 2017, and sections 19, 21 and 23, chapter 72, Oregon Laws 2018, is amended to read:

339.133. (1) As used in this section:

(a) "Foster care" means substitute care for children placed by the Department of Human Services or a tribal child welfare agency away from their parents and for whom the department or agency has placement and care responsibility, including placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions and preadoptive homes.

(b)(A) "Person in parental relationship" means an adult who has physical custody of an individual or resides in the same household as the individual, interacts with the individual daily, provides the individual with food, clothing, shelter and incidental necessities and provides the individual with necessary care, education and discipline.

(B) "Person in parental relationship" does not mean a person with a power of attorney or other written delegation of parental responsibilities if the person does not have other evidence of a parental relationship.

(c) "School district of origin" means the school district where an individual was a resident before:

(A) The individual was placed into foster care; or

(B) The foster care placement of the individual changed.

(d) "School of origin" means the school that an individual attended before:

(A) The individual was placed into foster care; or

(B) The foster care placement of the individual changed.

(2)(a) Except as provided in subsections (3) to (5) of this section, individuals between the ages of 4 and 18 shall be considered resident for school purposes in the school district in which their parents, their guardians or persons in parental relationship to them reside.

(b) Nonemancipated individuals between the ages of 4 and 18 living outside the geographic area of the school district for such reasons as attending college, military service, hospital confinement or employment away from home shall be considered resident in the district in which their parents, their guardians or persons in parental relationship to them reside.

(c) Individuals living temporarily in a school district for the primary purpose of attending a district school may not be considered resident in the district in which they are living temporarily, but shall be considered resident in the district in which they, their parents, their guardians or persons in parental relationship to them reside.

(3) Individuals considered legally emancipated from their parents shall be considered resident in the district in which they actually reside, irrespective of the residence of their parents, their guardians or persons in parental relationship.

(4)(a) An individual who is between the ages of 4 and 21 and who is placed in foster care shall be considered a resident of:

(A) The school district of origin; or

(B) The school district where the individual resides due to placement by the Department of Human Services or a tribal child welfare agency if a juvenile court determines it is not in the best

interest of the individual to continue attending the school of origin or any other school in the school district of origin, based on consideration of all factors relating to the individual's best interests.

(b) If a juvenile court makes a determination that it is not in the best interest of the individual to continue attending the school of origin, the individual shall be immediately enrolled in a new school, even if the individual is unable to produce records normally required for enrollment.

(c) Individuals who are residents of their school district of origin pursuant to paragraph (a)(A) of this subsection shall:

(A) Remain in the individual's school district of origin and, if applicable, the individual's school of origin for the duration of the individual's time in foster care; and

(B) Be provided, free of charge, transportation between the individual's home and the individual's school district of origin or, if applicable, the individual's school of origin.

(d) The Department of Education, the Department of Human Services, tribal child welfare agencies and school districts shall collaborate to ensure that the provisions of this subsection are implemented.

(5)(a) Except as provided in ORS 327.006 [(7)] (6) and 335.090, an individual whose legal residence is not within the district but who attends school in the district is considered a resident in the district in which the individual attends school if the individual receives written consent from both of the affected district school boards as provided by policies adopted by the boards.

(b) An individual whose legal residence is not within the district but who attends school in the district is considered a resident in the district in which the individual attends school if:

(A) The legal residence of the individual had been in the district in which the individual attends school before a boundary change was made to the district;

(B) The legal residence of the individual is no longer in the district in which the individual attends school because of the boundary change; and

(C) The individual has had the same legal residence and has continuously been enrolled in a school in the district since the boundary change.

SECTION 20. ORS 442.851 is amended to read:

442.851. (1) Amounts collected by the Oregon Patient Safety Commission under ORS 442.850 may not exceed \$1.5 million for the fiscal year beginning on July 1, 2007, and ending on June 30, 2008.

(2) **For every fiscal year beginning on or after July 1, 2008**, the dollar amount specified in subsection (1) of this section shall be adjusted annually by the commission based upon the change in the Consumer Price Index **for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor** [as defined in ORS 327.006 for every fiscal year beginning on or after July 1, 2008].

SECTION 21. ORS 459.310 is amended to read:

459.310. (1) Each board of county commissioners of a county in which a regional disposal site is operating under provisions of ORS 459.005 to 459.437 may impose a surcharge on the solid waste received at the regional disposal site. The county may negotiate with the owner or operator of the regional disposal site to establish the amount of the surcharge imposed under this subsection. If the regional disposal site is publicly owned, the board of county commissioners shall give priority in expending the moneys to mitigation of adverse impacts on the area in and around the regional disposal site and related transfer stations located in the county including but not limited to rehabilitation and enhancement of the area, development of alternate water systems, road construction and maintenance and mitigation of adverse effects on wildlife and the environment, if provisions to mitigate such adverse impacts are not assured by permit conditions or bond requirements.

(2) If the parties negotiating a surcharge under subsection (1) of this section do not reach an agreement within 90 days after the Department of Environmental Quality receives an application under ORS 459.235 for a permit for the regional disposal site, the board of county commissioners shall unilaterally impose the following surcharge:

- (a) For the first 2,000 tons per day..... \$ 0.75/ton
- (b) For each ton between

- 2,000 to 4,000 tons
per day \$ 1.00/ton
- (c) For each ton above
4,000 tons per day \$ 1.25/ton

(3) If a board of county commissioners imposes the surcharge under subsection (2) of this section:

(a) The surcharge shall be adjusted annually in accordance with the [*Portland Consumer Price Index*] **Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor;**

(b) Up to 10 percent of the surcharge shall go into a transition fund to be used by the county after the regional disposal site is closed for the purpose of minimizing the dislocation resulting from the loss of revenue from closure of the site; and

(c) Of that portion of the surcharge not placed into a transition fund under paragraph (b) of this subsection, priority shall be given in expending the moneys to mitigation of adverse impacts on the area in and around the regional disposal site and related transfer stations located in the county including but not limited to rehabilitation and enhancement of the area, development of alternate water systems, road construction and maintenance and mitigation of adverse effects on wildlife and the environment, if provisions to mitigate such adverse impacts are not assured by permit conditions or bond requirements.

SECTION 22. ORS 459A.125 is amended to read:

459A.125. (1) The fees generated under ORS 459A.110 shall be sufficient to accomplish the purposes set forth in ORS 459A.120, provided that:

(a) The fees established under ORS 459A.110 (1) shall be no more than \$1.18 per ton for the biennium beginning July 1, 2015; and

(b) Any per-ton fee on disposal sites for composting under ORS 459A.110 (2) shall be no more than the per-ton fee assessed on domestic solid waste disposal under ORS 459A.110 (1), less \$0.81 per ton.

(2) For the biennium beginning July 1, 2017, and each subsequent biennium and subject to prior approval by the Oregon Department of Administrative Services, the Environmental Quality Commission may:

(a) Proportionally adjust the fees established under this section and ORS 459A.110 to meet revenue needs consistent with the budget authorized by the Legislative Assembly as that budget may be modified by the Emergency Board; or

(b) Adjust for inflation by modifying the amount of the fees established under this section and ORS 459A.110 based on the [*West Region Consumer Price Index for All Urban Consumers for All Items,*] **Consumer Price Index for All Urban Consumers, West Region (All Items),** as published by the Bureau of Labor Statistics of the United States Department of Labor.

(3) Any fee adjustment adopted pursuant to subsection (2) of this section shall be adopted not less than six months prior to the date that the fee adjustment will be effective.

(4) The commission may not adopt a fee adjustment under subsection (2) of this section if the adjustment would result in:

(a) A fee increase or decrease of less than two percent for the biennium for which the fee adjustment will be effective; or

(b) A fee under ORS 459A.110 (1) that is greater than the maximum fee provided for in subsection (1)(a) of this section adjusted annually on July 1 by a three percent increase in the maximum fee.

(5) The commission may not adopt more than one fee adjustment under subsection (2) of this section each biennium.

SECTION 23. Section 2, chapter 2, Oregon Laws 2017, is amended to read:

Sec. 2. [*Section 2. Creates Outdoor School Education Fund*] (1) The Outdoor School Education Fund is created within the State Treasury, separate and distinct from the General Fund.

(2) Moneys in the [*fund*] **Outdoor School Education Fund** shall consist of:

- [a] (a) Amounts donated to the fund;
- [b] (b) Amounts allocated under [Section 2(3) below] **subsection (3) of this section** or otherwise transferred to the fund by the Legislative Assembly;
- [c] (c) Investment earnings received on moneys in the fund; and
- [d] (d) Other amounts deposited in the fund from any source.

(3) In each fiscal quarter [of a biennium], commencing with the first quarter [of] **in** the biennium beginning July 1, 2017, there is allocated from the Administrative Services Economic Development Fund to the Outdoor School Education Fund established [by this measure] **in this section** an amount equal to the lesser of:

[a] (a) Four percent of the moneys transferred from the Oregon State Lottery Fund in that fiscal quarter; or

[b] (b) \$5.50 million, but not to exceed \$22 million annually, adjusted annually pursuant to the Consumer Price Index **for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor**[, as defined in ORS 327.006].

(4) The allocation of funds to the Outdoor School Education Fund shall not reduce lottery proceeds dedicated to education under Article XV, [Section] **section 4**, of the Oregon Constitution, or to the restoration and preservation of parks, beaches, watersheds[,] and native fish and wildlife under Article XV, [Sections] **sections 4a and 4b**, of the Oregon Constitution.

SECTION 24. ORS 461.543 is amended to read:

461.543. (1) Except as otherwise specified in subsection (5) of this section, the Sports Lottery Account is continuously appropriated to and shall be used by the Higher Education Coordinating Commission to fund sports programs at public universities listed in ORS 352.002. Seventy percent of the revenues in the fund shall be used to fund nonrevenue producing sports and 30 percent shall be used for revenue producing sports. Of the total amount available in the fund, at least 50 percent shall be made available for women's athletics.

(2) The commission shall allocate moneys in the Sports Lottery Account among the public universities, giving due consideration to:

(a) The athletic conference to which the public university belongs and the relative costs of competing in that conference.

(b) The level of effort being made by the public university to generate funds and support from private sources.

(3) As used in subsections (1) to (3) of this section, "revenue producing sport" is a sport that produces net revenue over expenditures during a calendar year or if its season extends into two calendar years, produces net revenue over expenditures during the season.

(4) An amount equal to one percent of the moneys transferred to the Administrative Services Economic Development Fund from the State Lottery Fund shall be allocated from the Administrative Services Economic Development Fund to the Sports Lottery Account.

(5) The amounts received by the Sports Lottery Account shall be allocated as follows:

(a) Eighty-eight percent for the purposes specified in subsections (1) to (3) of this section, but not to exceed \$8 million annually, adjusted annually pursuant to the Consumer Price Index **for all Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor**[, as defined in ORS 327.006].

(b) Twelve percent for the purpose of scholarships, to be distributed equally between scholarships based on academic merit and scholarships based on need, as determined by rule of the commission, but not to exceed \$1,090,909 annually.

(c) All additional money to the commission for the Oregon Opportunity Grant program under ORS 348.260.

SECTION 25. ORS 468A.276 is amended to read:

468A.276. (1) The clean fuels program adopted by the Environmental Quality Commission by rule under ORS 468A.266 must include provisions necessary for the Department of Environmental Quality

to hold credit clearance markets as a means to facilitate compliance with the low carbon fuel standards.

(2)(a) The department shall hold a credit clearance market for any compliance period in which at least one regulated party reports that the regulated party has a net deficit balance at the end of the compliance period, after retirement of all credits held by the regulated party, that is greater than a small deficit. A regulated party described by this paragraph is required to participate in the credit clearance market.

(b) If a regulated party has a small deficit at the end of a compliance period, the regulated party shall notify the department that it will achieve compliance with the low carbon fuel standard during the compliance period by either:

- (A) Participating in a credit clearance market; or
- (B) Carrying forward the small deficit.

(3) For purposes of administering a credit clearance market required by this section, the department shall:

(a) Allow any regulated party, credit generator or credit aggregator that holds excess credits at the end of a compliance period to voluntarily participate in the credit clearance market as a seller by pledging a specified number of credits for sale in the market.

(b) Require each regulated party participating in the credit clearance market as a purchaser of credits to:

(A) Have retired all credits in the party's possession prior to participating in the credit clearance market; and

(B) Purchase the specified number of the total pledged credits that the department has determined are that party's pro rata share of the pledged credits.

(c) Require all sellers to:

(A) Agree to sell pledged credits at a price no higher than a maximum price for credits;

(B) Accept all offers to purchase pledged credits at the maximum price for credits; and

(C) Agree to withhold any pledged credits from sale outside the credit clearance market until the credit clearance market is closed.

(4)(a) The commission shall set the maximum price for credits in a credit clearance market, which may not exceed \$200 for 2018.

(b) For 2019 and subsequent years, the maximum price for credits may exceed \$200, but only to the extent that a greater maximum price for credits is necessary to annually adjust for inflation, beginning on January 1, 2019, pursuant to the increase, if any, from the preceding calendar year in the [*West Region Consumer Price Index for All Urban Consumers for All Items*,] **Consumer Price Index for All Urban Consumers, West Region (All Items)**, as published by the Bureau of Labor Statistics of the United States Department of Labor.

(5) A regulated party that has a net deficit balance after the close of a credit clearance market:

(a) Must carry over the remaining deficits into the next compliance period; and

(b) May not be subject to interest greater than five percent, penalties or assertions of noncompliance that accrue based on the carryover of deficits under this subsection.

(6) If a regulated party has been required under subsection (2) of this section to participate as a purchaser in two consecutive credit clearance markets and continues to have a net deficit balance after the close of the second consecutive credit clearance market, the Department of Environmental Quality shall complete, no later than two months after the close of the second credit clearance market, an analysis of the root cause of the inability of the regulated party to retire the remaining deficits. The department may recommend and implement any remedy that the department determines is necessary to address the root cause identified in the analysis, including but not limited to issuing a deferral, provided that the remedy implemented does not:

(a) Require the regulated party to purchase credits for an amount that exceeds the maximum price for credits in the most recent credit clearance market; or

(b) Compel a person to sell credits.

(7) If credits sold in a credit clearance market are subsequently invalidated as a result of fraud or any other form of noncompliance on the part of the generator of the credit, the department may not pursue civil penalties against, or require credit replacement by, the regulated party that purchased the credits unless the regulated party was a party to the fraud or other form of noncompliance.

(8) The department may not disclose the deficit balances or pro rata share purchase requirements of a regulated party that participates in the credit clearance market.

SECTION 26. ORS 470.640 is amended to read:

470.640. (1) Except as provided in subsection (2) of this section, the amount of an energy efficiency and sustainable technology loan may not exceed \$40,000 for residential dwellings served by a single meter of the utility that is to provide on-bill financing. The loan limit described in this subsection does not apply to other buildings such as multifamily housing and mixed-use structures.

(2) The loan amount limit described in subsection (1) of this section shall increase annually on January 1 of each year, beginning January 1, 2011. The loan amount limit shall increase from the most recently established loan amount limit by a percentage equal to the percentage increase in the [*Portland-Salem Consumer Price Index for All Urban Consumers for All Items as reported by the Bureau of Labor Statistics of the United States Department of Labor*] **Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor.**

SECTION 27. ORS 471.175 is amended to read:

471.175. (1) The holder of a full on-premises sales license may sell by the drink at retail wine, malt beverages, cider and distilled liquor. Except as provided in this section, all alcoholic beverages sold under a full on-premises sales license must be consumed on the licensed premises.

(2) A full on-premises sales license may be issued only to:

(a) A nonprofit private club, as described in subsection (8) of this section.

(b) A public passenger carrier as provided in ORS 471.182.

(c) A commercial establishment, as defined in ORS 471.001 (2).

(d) A public location that does not qualify for licensing under paragraphs (a) to (c) of this subsection if:

(A) Food is cooked and served at the location;

(B) The predominant business activity at the location is other than the preparation or serving of food or the serving of alcohol; and

(C) The location meets any minimum food service requirements established by Oregon Liquor Control Commission rule.

(e) A caterer, subject to the requirements of ORS 471.184.

(3) The holder of a full on-premises sales license shall allow a patron to remove a partially consumed bottle of wine from the licensed premises if the wine is served in conjunction with the patron's meal, the patron is not a minor and the patron is not visibly intoxicated.

(4) The holder of a full on-premises sales license is entitled to purchase any distilled liquor from an agent of the commission appointed pursuant to ORS 471.750 at a discount of not more than five percent off the regular listed price fixed by the commission, together with all taxes, in a manner prescribed by commission rule. For purposes of compensation by the commission, the appointed agent shall be credited with such sales at full retail cost. The commission may not require the licensee to purchase more than one container of distilled liquor at a time if the distilled liquor:

(a) Except as provided in subsection (9) of this section, has a retail sales price of \$30 or more per container;

(b) Is available through a distributor in the United States that does not require the commission to acquire more than one case of the distilled liquor in a single transaction;

(c) Is not regularly stocked by the commission; and

(d) Is ordered in a 750 milliliter container size if available in that size.

(5) The holder of a full on-premises sales license may purchase distilled liquor only from a retail sales agent of the commission or from another person licensed under this section who has purchased the distilled liquor from a retail sales agent of the commission.

(6) The holder of a full on-premises sales license may sell factory-sealed containers of wine to a person who organizes a private gathering on the licensee's premises if the wine was acquired as part of a larger purchase of wine by the licensee for the purpose of the gathering and only part of the larger purchase was consumed at the gathering. Wine sold under this subsection may be sold only for an amount adequate to compensate the licensee for the amounts paid by the licensee for the wine.

(7) The holder of a full on-premises sales license may sell for consumption off the licensed premises malt beverages, wines and cider in securely covered containers provided by the consumer and having capacities of not more than two gallons each.

(8) A nonprofit private club, including but not limited to a fraternal or veterans organization, may qualify for a full on-premises sales license under this section only if the club meets any minimum membership, nonprofit status and food service requirements established by commission rule.

(9) **Beginning January 1, 2017**, the commission may annually adjust the price threshold established in subsection (4)(a) of this section by a percentage equal to the percentage change in the [*Portland-Salem, OR-WA Consumer Price Index for All Urban Consumers for All Items*] **Consumer Price Index for All Urban Consumers, West Region (All Items)**, as published by the Bureau of Labor Statistics of the United States Department of Labor. However, the commission may not adjust the price threshold to be less than \$30.

SECTION 28. ORS 471.750 is amended to read:

471.750. (1) The Oregon Liquor Control Commission shall establish such stores and warehouses in such places in the state as in its judgment are required by public convenience or necessity, for the sale of spirituous liquors, wines and other alcoholic liquors containing over five percent alcohol by volume, in sealed containers for consumption off the premises. The commission shall keep on hand in such stores or warehouses such quantities and kinds of alcoholic liquors as are reasonably required to supply the public demand.

(2) Any person qualified to purchase such liquors from the commission has the right to present to the commission, or at any of its stores, an application for any kind or brand of alcoholic liquor that the person may desire and that may be manufactured or obtainable in any place in the United States, and the commission shall obtain such liquor and sell it to the applicant. The commission may not require that an application for a kind or brand of alcoholic liquor include a commitment to purchase a minimum amount of the liquor or require that a purchase be for more than one container of a kind or brand of alcoholic liquor if the liquor:

(a) Except as provided in subsection (5) of this section, has a retail sales price of \$30 or more per container;

(b) Is available through a distributor in the United States that does not require the commission to acquire more than one case of the distilled liquor in a single transaction;

(c) Is not regularly stocked by the commission; and

(d) Is ordered in a 750 milliliter container size if available in that size.

(3) The commission may not establish a store in any county or incorporated city of this state where a local prohibitory law is in effect. The commission shall adopt rules governing advertising by stores operated by the commission. The commission may appoint agents in the sale of said liquor under such agreement as the commission may negotiate with said agents or their representative.

(4) Rules relating to advertising adopted by the commission under subsection (3) of this section shall allow signs and displays within its stores for the purpose of supplying consumer information to customers, including but not limited to discounts, sales and other specials. Commission discretion with respect to those signs and displays shall be limited to regulation of the content, size, number per brand, type and duration of the sign or display. Signs and displays may be supplied by manufacturers, wholesalers or distributors, and may bear the name of a particular distillery, supplier or brand of liquor. The use of signs and displays shall be optional with the agent appointed by the

commission. Signs or displays authorized by the commission may not be placed in positions within the store where the sign or display would be readily visible from outside of the store.

(5) The commission may annually adjust the price threshold established in subsection (2)(a) of this section by a percentage equal to the percentage change in the [*Portland-Salem, OR-WA Consumer Price Index for All Urban Consumers for All Items*] **Consumer Price Index for All Urban Consumers, West Region (All Items)**, as published by the Bureau of Labor Statistics of the United States Department of Labor. However, the commission may not adjust the price threshold to be less than \$30.

SECTION 29. ORS 565.447 is amended to read:

565.447. (1) Subject only to the availability of unobligated net lottery proceeds, there is allocated from the Administrative Services Economic Development Fund to the County Fair Account created under ORS 565.445 an amount equal to one percent of the net proceeds from the Oregon State Lottery, but not to exceed \$1.53 million annually, adjusted biennially pursuant to [*the change in the Consumer Price Index, as defined in ORS 327.006, between January 1, 2001, and January 1 immediately preceding commencement of the biennium.*] **an inflation factor determined by dividing the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor, for January 1 immediately preceding commencement of the biennium, by the Consumer Price Index for All Urban Consumers of the Portland, Oregon, Standard Metropolitan Statistical Area, as compiled by the United States Department of Labor, Bureau of Labor Statistics, for January 1, 2001.**

(2) The allocation of moneys from the Administrative Services Economic Development Fund under this section is subject to the requirements in section 4, Article XV of the Oregon Constitution, for deposit of specified amounts of the net proceeds from the Oregon State Lottery into the Education Stability Fund and into the Parks and Natural Resources Fund and shall be made only after satisfaction or payment of:

(a) Amounts allocated to Westside lottery bonds issued under ORS 391.140 or to the reserves or any refunding related to the Westside lottery bonds in accordance with the priority for allocation and disbursement established by ORS 391.130;

(b) All liens, pledges or other obligations relating to lottery bonds or refunding lottery bonds due or payable during the year for which an allocation is to be made; and

(c) Amounts required by any other pledges of, or liens on, net proceeds from the Oregon State Lottery.

SECTION 30. ORS 616.686 is amended to read:

616.686. (1) The State Department of Agriculture may adopt rules for the administration and enforcement of ORS 616.683.

(2) The department may adopt rules increasing the food sales limit described in ORS 616.683 (2)(e)(D) by an amount that reflects changes in the [*Portland-Salem, OR-WA Consumer Price Index for All Urban Consumers for All Items as reported*] **Consumer Price Index for All Urban Consumers, West Region (All Items)**, as published by the Bureau of Labor Statistics of the United States Department of Labor. The State Department of Agriculture may not adopt rules to decrease the food sales limit described in ORS 616.683 (2)(e)(D) or to decrease an acidified food sales limit previously established by the department by rule.

SECTION 31. ORS 616.723 is amended to read:

616.723. (1) As used in this section:

(a) "Food" and "food establishment" have the meanings given those terms in ORS 616.695. "Food" does not include any article containing cannabis.

(b) "Potentially hazardous" means requiring temperature control due to the capacity to support the rapid and progressive growth of infectious microorganisms or the growth of toxic microorganisms.

(2) ORS 616.695 to 616.755 do not apply to a food establishment if:

(a) The food establishment is located in a residential dwelling;

- (b) The food establishment sells food only to the end user of the product;
- (c) The foods prepared at the food establishment for public distribution are not potentially hazardous;
- (d) The foods prepared at the food establishment for public distribution are baked goods or confectionary items;
- (e) The food bears on its label a statement and product information as described in subsection (4) of this section informing consumers that the product is not prepared in an inspected food establishment;
- (f) Except as provided in subsection (6) of this section, the annual gross sales of foods prepared at the food establishment do not exceed \$20,000; and
- (g) Each individual involved in the preparation of food at the food establishment for public distribution has successfully completed a food handler training program and holds a certificate issued under ORS 624.570.

(3) A person may not sell foods prepared in an establishment described in this section on the Internet or to a commercial entity or an institution including, but not limited to, a restaurant, grocery store, caterer, school, day care center, hospital, nursing home or correctional facility.

(4)(a) Except as provided in this paragraph, the label statement required under subsection (2) of this section is "This product is homemade and is not prepared in an inspected food establishment." The State Department of Agriculture may adopt rules specifying alternative wording for the label statement to the extent that alternative wording is necessary in order to comply with federal requirements.

(b) In addition to the statement required under paragraph (a) of this subsection, the label shall disclose the following product information:

- (A) The name, phone number and address for the food establishment;
- (B) The name of the product;
- (C) The ingredients of the product in descending order by weight;
- (D) The net weight or net volume of the product;
- (E) Any applicable allergen warnings as specified under federal labeling requirements; and
- (F) If the label provides any nutrient content claim, health claim or other nutritional information, product nutritional information as described in federal labeling requirements.

(5) Notwithstanding subsection (2) of this section, the department may require a food establishment described in this section to become licensed under ORS 616.695 to 616.755, if the food establishment refuses to comply with department rules requiring that the food establishment be constructed and maintained in a clean, healthful and sanitary condition.

(6) The department may adopt rules increasing the food sales limit established in subsection (2) of this section by an amount that reflects changes in the [*Portland-Salem, OR-WA, Consumer Price Index for All Urban Consumers for All Items as reported*] **Consumer Price Index for All Urban Consumers, West Region (All Items), as published** by the Bureau of Labor Statistics of the United States Department of Labor. The State Department of Agriculture may not adopt rules decreasing the food sales limit established in subsection (2) of this section.

(7) A person operating a food establishment described in this section must maintain accurate records of annual sales and the types of foods produced by the food establishment. The person must retain the records for not less than three years and make the records available for inspection by the department upon request.

SECTION 32. ORS 671.540 is amended to read:

671.540. (1) Except as provided in subsection (2) of this section, ORS 671.510 to 671.760 and 671.990 (2) do not apply to:

- (a) Any federal or state agency or any political subdivision performing landscaping work on public property.
- (b) Any landscape architect registered under ORS 671.310 to 671.459 and practicing as provided under ORS 671.310 to 671.459.
- (c) Landscaping work performed by a landscape maintenance business if:

(A) The landscaping work is performed for a customer that in a calendar year receives primarily landscape maintenance services from the business;

(B) The value of all labor, materials or other items supplied for landscaping work at a job site does not exceed \$500 in a calendar year; and

(C) The landscaping work is of a casual, minor or inconsequential nature, as those terms are defined by the State Landscape Contractors Board by rule.

(d) Installation of fences, decks, arbors, driveways, walkways or retaining walls if performed by a person or business licensed with the Construction Contractors Board.

(e) Rough grading of plots and areas of land performed in conjunction with new or remodeling construction if performed by a person or business licensed with the Construction Contractors Board.

(f) Any owner of property, or employee of an owner of property, who contracts for landscaping work on the property to be performed by a person licensed under ORS 671.560. The exception provided by this paragraph does not apply to a person who, in pursuit of an independent business, performs or contracts for the performance of landscaping work with the intent of offering for sale before, upon or after completion of the landscaping work the property upon which the landscaping work is performed.

(g) Any landscaping work performed by a person on property that the person owns or in which the person has a legal interest. The exception provided by this paragraph does not apply to a person who, in pursuit of an independent business, performs or contracts for the performance of landscaping work with the intent of offering for sale before, upon or after completion of the landscaping work the property on which the landscaping work is performed.

(h) A residential general contractor licensed under ORS chapter 701 who performs landscaping work if the total value of the landscaping is less than \$2,500 per residential dwelling and the landscaping work is performed on residential property for which the contractor is under contract for the construction of a new dwelling. The exception provided by this paragraph does not apply to the performance of irrigation work by a residential general contractor. The State Landscape Contractors Board shall revise the amount specified in this paragraph every five years, beginning in 2003, based on changes in the [*Portland-Salem, OR-WA Consumer Price Index for All Urban Consumers for All Items*] **Consumer Price Index for All Urban Consumers, West Region (All Items)**, as published by the Bureau of Labor Statistics of the United States Department of Labor.

(i) A residential general contractor licensed under ORS chapter 701 who performs landscaping work on residential property that is directly related to local building code requirements or occupancy ordinances including, but not limited to, the placement of street trees. The exception provided by this paragraph does not apply to the performance of irrigation work by a residential general contractor.

(j) A person engaged in making plans or drawings for the selection, placement or use of plants or other site features, unless the plans or drawings are for the purpose of providing construction details and specifications.

(k) Use by a person other than a landscape construction professional of the title "landscape designer" when engaged in making plans or drawings described in paragraph (j) of this subsection.

(L) A person providing recommendations or written specifications for soil amendments or planting media if the recommendations or specifications are solely for the purpose of plant installation.

(m) A plumbing contractor licensed under ORS 447.010 to 447.156 when engaged in superintending installation work on piping for an irrigation system designed by a landscape contracting business or by a person registered under ORS 671.310 to 671.459.

(n) A plumbing contractor licensed under ORS 447.010 to 447.156 when engaged in superintending repair or maintenance work on piping for an irrigation system.

(o) A journeyman plumber licensed under ORS chapter 693 when performing an installation for a plumbing contractor described in paragraph (m) of this subsection or performing repair or maintenance work on piping for an irrigation system.

(p) An employee, as defined in ORS 657.015, of a residential general contractor licensed under ORS chapter 701 when performing work that the contractor may perform under paragraph (h) or (i) of this subsection.

(q) An employee of a licensed landscape contracting business when performing work for the business under the direct supervision of a licensed landscape construction professional.

(r) An employee of a worker leasing company or temporary service provider, both as defined in ORS 656.850, when performing work for a licensed landscape contracting business under the direct supervision of a licensed landscape construction professional.

(2) ORS 671.530 (2), (4) and (5) apply to a person described under subsection (1) of this section.

SECTION 33. ORS 735.406 is amended to read:

735.406. Beginning on January 1, 2015, and each fifth January 1 occurring thereafter, the amounts in ORS 735.405 (6)(c)(A), (B) and (D) shall be adjusted to reflect the percentage change for such five-year period in the [*Portland-Salem, OR-WA, Consumer Price Index for All Urban Consumers for All Items*] **Consumer Price Index for All Urban Consumers, West Region (All Items)**, as published by the Bureau of Labor Statistics of the United States Department of Labor.

SECTION 34. ORS 776.357 is amended to read:

776.357. (1) The maximum annual license fee for a maritime pilot is \$2,500 for the biennium beginning July 1, 2007.

(2) The Oregon Board of Maritime Pilots shall adjust the amount of the maximum annual license fee for a maritime pilot for each subsequent biennium by a proportional amount equal to the percentage change in the 24-month period prior to the beginning of the biennium in the [*Portland-Salem, OR-WA, Consumer Price Index for All Urban Consumers for All Items, as published by the Bureau of Labor Statistics of the United States Department of Labor*] **Consumer Price Index for All Urban Consumers, West Region (All Items)**, as published by the Bureau of Labor Statistics of the United States Department of Labor.

SECTION 35. ORS 776.810 is amended to read:

776.810. (1) Subject to subsection (2) of this section, the maximum board operations fee for a vessel is \$100.

(2) The Oregon Board of Maritime Pilots shall adjust the amount of the maximum board operations fee for a vessel each biennium beginning July 1, 2015, by a proportional amount equal to the percentage change in the 24-month period prior to the beginning of the biennium in the [*Portland-Salem, OR-WA, Consumer Price Index for All Urban Consumers for All Items,*] **Consumer Price Index for All Urban Consumers, West Region (All Items)**, as published by the Bureau of Labor Statistics of the United States Department of Labor.

SECTION 36. ORS 811.720 is amended to read:

811.720. (1) Except as provided in subsection (4) of this section, any accident occurring on a highway or upon premises open to the public resulting in injury or death to any person is subject to the reporting requirements under the following sections:

- (a) The reporting requirements for drivers under ORS 811.725.
- (b) The reporting requirements for occupants of vehicles in accidents under ORS 811.735.
- (c) The reporting requirements for owners of vehicles under ORS 811.730.

(2) Except as provided in subsection (4) of this section, an accident occurring on a highway or upon premises open to the public resulting in damage to the property of any person in excess of \$2,500 is subject to the following reporting requirements:

(a) The driver of a vehicle that has more than \$2,500 damage must report the accident in the manner specified under ORS 811.725.

(b) The owner of a vehicle that has more than \$2,500 damage must report the accident in the manner specified in ORS 811.730 and under the circumstances specified in ORS 811.730.

(c) If the property damage is to property other than a vehicle involved in the accident, each driver involved in the accident must report the accident in the manner specified under ORS 811.725 and each owner of a vehicle involved in the accident must report the accident in the manner specified in ORS 811.730 and under the circumstances specified in ORS 811.730.

(d) If a vehicle involved in the accident is damaged to the extent that the vehicle must be towed from the scene of the accident, each driver involved in the accident must report the accident in the manner specified under ORS 811.725 and each owner of a vehicle involved in the accident must report the accident in the manner specified in ORS 811.730 and under the circumstances specified in ORS 811.730.

(3) The dollar amount specified in subsection (2) of this section may be increased every five years by the Department of Transportation based upon any increase in the [*Portland-Salem Consumer Price Index for All Urban Consumers for All Items as prepared*] **Consumer Price Index for All Urban Consumers, West Region (All Items), as published** by the Bureau of Labor Statistics of the United States Department of Labor or its successor during the preceding 12-month period. The amount determined under this subsection shall be rounded to the nearest \$100.

(4) The following are exempt from the reporting requirements of this section:

(a) Operators of snowmobiles, Class I all-terrain vehicles or Class III all-terrain vehicles.

(b) A law enforcement official acting in the course of official duty if the accident involved a law enforcement official performing a lawful intervention technique or a law enforcement official and a person acting during the commission of a criminal offense. As used in this paragraph:

(A) "Law enforcement official" means a person who is responsible for enforcing the criminal laws of this state or a political subdivision of this state and who is employed or volunteers:

(i) As a peace officer commissioned by a city, university that has established a police department under ORS 352.121 or 353.125, port, school district, mass transit district, county or county service district authorized to provide law enforcement services under ORS 451.010;

(ii) With the Department of State Police or the Criminal Justice Division of the Department of Justice;

(iii) As an investigator of a district attorney's office, if the investigator is certified as a peace officer in this state; or

(iv) As an authorized tribal police officer as defined in ORS 181A.680.

(B) "Lawful intervention technique" means a method by which one motor vehicle causes, or attempts to cause, another motor vehicle to stop.

SECTION 37. ORS 811.745 is amended to read:

811.745. (1) Except as provided in subsection (4) of this section, any accident occurring on a highway or upon premises open to the public resulting in injury or death to any person is subject to the reporting requirements under the following sections:

(a) The reporting requirements for drivers under ORS 811.748.

(b) The reporting requirements for occupants of vehicles in accidents under ORS 811.750.

(2) Except as provided in subsection (4) of this section, an accident occurring on a highway or upon premises open to the public resulting in damage to the property of any person in excess of \$2,500 is subject to the following reporting requirements:

(a) The driver of a vehicle that has more than \$2,500 damage must report the accident in the manner specified under ORS 811.748.

(b) If the property damage is to property other than a vehicle involved in the accident, each driver involved in the accident must report the accident in the manner specified under ORS 811.748.

(c) If a vehicle involved in the accident is damaged to the extent that the vehicle must be towed from the scene of the accident, each driver involved in the accident must report the accident in the manner specified under ORS 811.748.

(3) The dollar amount specified in subsection (2) of this section may be increased every five years by the Department of Transportation based upon any increase in the [*Portland-Salem Consumer Price Index for All Urban Consumers for All Items as prepared*] **Consumer Price Index for All Urban Consumers, West Region (All Items), as published** by the Bureau of Labor Statistics of the United States Department of Labor or its successor during the preceding 12-month period. The amount determined under this subsection shall be rounded to the nearest \$100.

(4) The following are exempt from the reporting requirements of this section:

(a) Operators of snowmobiles and Class I, Class III and Class IV all-terrain vehicles.

(b) A law enforcement official acting in the course of official duty if the accident involved a law enforcement official performing a lawful intervention technique or involved a law enforcement official and a person acting during the commission of a criminal offense. As used in this paragraph:

(A) "Law enforcement official" means a person who is responsible for enforcing the criminal laws of this state or a political subdivision of this state and who is employed or volunteers:

(i) As a peace officer commissioned by a city, port, university that has established a police department under ORS 352.121 or 353.125, school district, mass transit district, county or service district authorized to provide law enforcement services under ORS 451.010;

(ii) With the Department of State Police or the Criminal Justice Division of the Department of Justice; or

(iii) As an investigator of a district attorney's office, if the investigator is certified as a peace officer in this state.

(B) "Lawful intervention technique" means a method by which one motor vehicle causes, or attempts to cause, another motor vehicle to stop.

(5) The reporting requirements under this section are in addition to, and not in lieu of, the reporting requirements under ORS 811.720.

SECTION 38. ORS 830.110 is amended to read:

830.110. In addition to the powers and duties otherwise provided in this chapter, the State Marine Board shall have the power and duty to:

(1) Make all rules necessary to carry out the provisions of this chapter. The rules shall be made in accordance with ORS chapter 183.

(2) Devise a system of identifying numbers for boats, floating homes and boathouses. If an agency of the federal government has an overall system of identification numbering for boats within the United States, the system devised by the board shall conform with the federal system.

(3) Cooperate with state and federal agencies to promote uniformity of the laws relating to boating and their enforcement.

(4) Make contracts necessary to carry out the provisions of ORS 830.060 to 830.140, 830.700 to 830.715, 830.725, 830.730, 830.770, 830.780, 830.785, 830.795 to 830.820 and 830.830 to 830.870.

(5) Advise and assist county sheriffs and other peace officers in the enforcement of laws relating to boating.

(6) Study, plan and recommend the development of boating facilities throughout the state which will promote the safety and pleasure of the public through boating.

(7) Publicize the advantage of safe boating.

(8) Accept gifts and grants of property and money to be used to further the purposes of this chapter.

(9) Exempt from any provisions of this chapter any class of boats if it determines that the safety of persons and property will not be materially promoted by the applicability of those provisions to the class of boats. The board may not exempt from numbering any class of boats unless:

(a) The board determines that the numbering will not materially aid in their identification; and

(b) The secretary of the department of the federal government under which the United States Coast Guard is operating has exempted from numbering the same boats or classes of boats.

(10) Appoint and require the bonding of agents to issue a temporary permit to operate a boat. In addition to the prescribed fees, the agents may charge the following for their services in issuing the temporary permit:

(a) \$2.50 per transaction for calendar years 2008, 2009 and 2010;

(b) \$3.75 per transaction for calendar years 2011, 2012 and 2013; and

(c) Beginning in 2014, and every three years thereafter, the board shall issue an order revising the fee specified in paragraph (b) of this subsection on January 1, based on changes in the [*Portland-Salem, OR-WA, Consumer Price Index for All Urban Consumers for All Items,*] **Consumer Price Index for All Urban Consumers, West Region (All Items)**, as published by the Bureau of Labor Statistics of the United States Department of Labor. The board shall round the amount of the

fee to the nearest half-dollar. The revised fee takes effect on January 1 and applies for the following three years.

(11) Publish and distribute to the interested public the boating laws of this state and resumes or explanations of those laws.

(12) Publish and distribute forms for any application required under this chapter and require the use of such forms.

(13) Make rules for the uniform navigational marking of the waters of this state. Such rules shall not conflict with markings prescribed by the United States Coast Guard. No political subdivision or person shall mark the waters of this state in any manner in conflict with the markings prescribed by the board.

(14) Make rules regarding marine toilets and their use consistent with the prevention and control of pollution of the waters of this state and not in conflict with the rules of the Oregon Health Authority or the Environmental Quality Commission.

(15) Institute proceedings to enjoin unlawful obstructions injuring free navigation on the waters of this state.

(16) Make rules regulating water ski course markers, ski jumps and other special use devices placed in the waters of this state. Such rules may regulate the installation and use of the devices and may require a permit.

(17) Adopt rules necessary to carry out and enforce the provisions of ORS 830.950 and 830.955. The rules shall include but need not be limited to:

(a) The kinds of protective covering or physical barriers that are acceptable to be used between a submersible polystyrene device and the water.

(b) Guidelines for the use of submersible polystyrene devices for the repair or maintenance of existing docks or floats.

(18) Adopt rules providing for establishment of a Safe Boating Education Course to be made available to courts and law enforcement agencies within this state for use as a sentencing option for those individuals convicted of boating offenses. The board shall specify the content of the Safe Boating Education Course and shall prescribe procedures for making the course available to local courts and law enforcement agencies, including procedures for promptly notifying such courts whether individuals required to enroll in the course have taken and successfully passed the course. Such rules may provide for administration of the course through nonprofit organizations, such as the United States Coast Guard Auxiliary, United States Power Squadrons or similar groups.

(19) For purposes of ORS 830.175, 830.180, 830.185, 830.187 and 830.195, in cooperation with the State Aviation Board, regulate boats that are seaplanes as provided in ORS 830.605 and 835.200.

SECTION 39. Section 40 of this 2019 Act is added to and made a part of ORS chapter 238.

SECTION 40. When the Public Employees Retirement Board is required to use a consumer price index to calculate cost of living adjustments to benefits payable under ORS chapter 238 or 238A, the board shall use the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor.

SECTION 41. Section 40 of this 2019 Act and the amendments to statutes and session law by sections 1 to 38 of this 2019 Act apply to computations required under the statutes and session law made on or after the effective date of this 2019 Act. Section 40 of this 2019 Act and the amendments to statutes and session law by sections 1 to 38 of this 2019 Act do not require the recomputation of any computation made under the statutes and session law before the effective date of this 2019 Act.

Passed by House March 14, 2019

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate April 25, 2019

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2019

Approved:

.....M,....., 2019

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2019

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Bev Clarno, Secretary of State