

Enrolled
House Bill 3104

Sponsored by COMMITTEE ON JUDICIARY (at the request of Representative Janelle Bynum)

CHAPTER

AN ACT

Relating to correction of erroneous material in Oregon law; creating new provisions; amending ORS 31.740, 40.245, 84.004, 94.575, 100.120, 105.435, 105.624, 109.704, 114.545, 127.765, 161.360, 174.535, 192.537, 197.772, 200.005, 276.093, 283.398, 327.254, 329.451, 329.841, 329.843, 329.845, 332.531, 337.514, 339.127, 339.329, 339.866, 342.120, 342.433, 343.154, 344.590, 352.218, 358.605, 413.011, 414.428, 414.631, 417.859, 419B.005, 421.442, 421.455, 430.210, 430.230, 430.735, 430.743, 430.753, 430.757, 430.765, 441.020, 442.485, 442.500, 443.008, 443.430, 458.610, 471.410, 498.164, 539.010, 553.270, 561.144, 569.600, 570.770, 646A.773, 653.307, 660.324, 672.060, 673.185, 676.340, 678.023, 678.730, 706.005, 714.300, 723.134, 743B.550, 750.055, 750.333 and 807.066 and section 1, chapter 5, Oregon Laws 2013, and ORCP 71 C and 78 C; and repealing ORS 445.010, 445.020, 445.030, 445.050, 445.060, 445.070, 445.090, 445.110, 445.120, 445.130, 445.140, 445.150, 445.155, 445.180 and 445.185.

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

SECTION 1. ORS 174.535 is amended to read:

174.535. It is the policy of the Legislative Assembly to revise sections from Oregon Revised Statutes and Oregon law periodically in order to maintain accuracy. However, nothing in chapter 740, Oregon Laws 1983, chapter 565, Oregon Laws 1985, chapter 158, Oregon Laws 1987, chapter 171, Oregon Laws 1989, chapters 67 and 927, Oregon Laws 1991, chapters 18 and 469, Oregon Laws 1993, chapter 79, Oregon Laws 1995, chapter 249, Oregon Laws 1997, chapter 59, Oregon Laws 1999, chapter 104, Oregon Laws 2001, chapter 14, Oregon Laws 2003, chapter 22, Oregon Laws 2005, chapter 71, Oregon Laws 2007, chapter 11, Oregon Laws 2009, chapter 9, Oregon Laws 2011, chapter 1, Oregon Laws 2013, chapter 27, Oregon Laws 2015, chapter 17, Oregon Laws 2017, [or] chapter 13, Oregon Laws 2019, **or this 2021 Act** is intended to alter the legislative intent or purpose of statutory sections affected by chapter 740, Oregon Laws 1983, chapter 565, Oregon Laws 1985, chapter 158, Oregon Laws 1987, chapter 171, Oregon Laws 1989, chapters 67 and 927, Oregon Laws 1991, chapters 18 and 469, Oregon Laws 1993, chapter 79, Oregon Laws 1995, chapter 249, Oregon Laws 1997, chapter 59, Oregon Laws 1999, chapter 104, Oregon Laws 2001, chapter 14, Oregon Laws 2003, chapter 22, Oregon Laws 2005, chapter 71, Oregon Laws 2007, chapter 11, Oregon Laws 2009, chapter 9, Oregon Laws 2011, chapter 1, Oregon Laws 2013, chapter 27, Oregon Laws 2015, chapter 17, Oregon Laws 2017, [and] chapter 13, Oregon Laws 2019, **and this 2021 Act**, except insofar as the amendments thereto, or repeals thereof, specifically require.

NOTE: Sets forth Reviser’s Bill policy statement.

SECTION 2. ORCP 71 C is amended to read:

C Relief from judgment by other means. This rule does not limit the inherent power of a court to modify a judgment within a reasonable time, or the power of a court to entertain an independent

action to relieve a party from a judgment, or the power of a court to grant relief to a defendant under Rule 7 [D(6)(f)] **D(6)(d)**, or the power of a court to set aside a judgment for fraud upon the court.

NOTE: Adjusts citation to reflect 2018 amendments.

SECTION 3. ORCP 78 C is amended to read:

C Application. Section B of this rule does not apply to an order or judgment for the payment of money, except orders and judgments for the payment of sums ordered pursuant to ORS 107.095 and 107.105 (1)(i), and money for support, maintenance, nurture, education, or attorney fees, in:

C(1) Actions for dissolution or annulment of marriage or separation from bed and board.

C(2) Proceedings upon support orders entered under ORS chapter 108, 109 or 110, or under ORS [416.400 to 416.465] **25.501 to 25.556**, 419B.400 or 419C.590.

NOTE: Updates reference to renumbered series in C(2).

SECTION 4. Section 1, chapter 5, Oregon Laws 2013, is amended to read:

Sec. 1. As used in sections 1 to 10 [of this 2013 Act], **chapter 5, Oregon Laws 2013:**

(1) "Adverse health care incident" means an objective, definable and unanticipated consequence of patient care that is usually preventable and results in the death of or serious physical injury to the patient.

(2) "Health care facility" has the meaning given that term in ORS 442.015.

(3) "Health care provider" means a person practicing within the scope of the person's license, registration or certification to practice as:

(a) A psychologist under ORS 675.030 to 675.070, 675.085 and 675.090;

(b) An occupational therapist under ORS 675.230 to 675.300;

(c) A physician under ORS 677.100 to 677.228;

(d) An emergency medical services provider under ORS chapter 682;

(e) A podiatric physician and surgeon under ORS 677.820 to 677.840;

(f) A registered nurse under ORS 678.010 to 678.410;

(g) A dentist under ORS [679.060 to 679.180] **chapter 679;**

(h) A dental hygienist under ORS 680.040 to 680.100;

(i) A denturist under ORS 680.515 to 680.535;

(j) An audiologist or speech-language pathologist under ORS 681.250 to 681.350;

(k) An optometrist under ORS 683.040 to 683.155 and 683.170 to 683.220;

(L) A chiropractor under ORS 684.040 to 684.105;

(m) A naturopath under ORS 685.060 to 685.110, 685.125 and 685.135;

(n) A massage therapist under ORS 687.011 to 687.250;

(o) A direct entry midwife under ORS 687.405 to 687.495;

(p) A physical therapist under ORS 688.040 to 688.145;

(q) A medical imaging licensee under ORS 688.445 to 688.525;

(r) A pharmacist under ORS 689.151 and 689.225 to 689.285;

(s) A physician assistant under ORS 677.505 to 677.525; or

(t) A professional counselor or marriage and family therapist under ORS 675.715 to 675.835.

(4) "Patient" means the patient or, if the patient is a minor, is deceased or has been medically confirmed by the patient's treating physician to be incapable of making decisions for purposes of sections 1 to 10 [of this 2013 Act], **chapter 5, Oregon Laws 2013**, the patient's representative as provided in section 8 [of this 2013 Act], **chapter 5, Oregon Laws 2013**.

NOTE: Standardizes series citation in (3)(g).

SECTION 5. ORS 31.740 is amended to read:

31.740. Punitive damages may not be awarded against a health practitioner if:

(1) The health practitioner is licensed, registered or certified as:

(a) A psychologist under ORS 675.030 to 675.070, 675.085 and 675.090;

(b) An occupational therapist under ORS 675.230 to 675.300;

(c) A regulated social worker under ORS 675.510 to 675.600;

(d) A physician under ORS 677.100 to 677.228 or 677.805 to 677.840;

- (e) An emergency medical services provider under ORS chapter 682;
- (f) A nurse under ORS 678.040 to 678.101;
- (g) A nurse practitioner under ORS 678.375 to 678.390;
- (h) A dentist under ORS [679.060 to 679.180] **chapter 679**;
- (i) A dental hygienist under ORS 680.040 to 680.100;
- (j) A denturist under ORS 680.515 to 680.535;
- (k) An audiologist or speech-language pathologist under ORS 681.250 to 681.350;
- (L) An optometrist under ORS 683.040 to 683.155 and 683.170 to 683.220;
- (m) A chiropractor under ORS 684.040 to 684.105;
- (n) A naturopath under ORS 685.060 to 685.110, 685.125 and 685.135;
- (o) A massage therapist under ORS 687.011 to 687.250;
- (p) A physical therapist under ORS 688.040 to 688.145;
- (q) A medical imaging licensee under ORS 688.445 to 688.525;
- (r) A pharmacist under ORS 689.151 and 689.225 to 689.285;
- (s) A physician assistant as provided by ORS 677.505 to 677.525; or
- (t) A professional counselor or marriage and family therapist under ORS 675.715 to 675.835; and
- (2) The health practitioner was engaged in conduct regulated by the license, registration or certificate issued by the appropriate governing body and was acting within the scope of practice for which the license, registration or certificate was issued and without malice.

NOTE: Standardizes series citation in (1)(h).

SECTION 6. ORS 40.245 is amended to read:

40.245. (1) A certificated staff member of an elementary or secondary school [*shall*] **may** not be examined in any civil action or proceeding[,] as to any conversation between the certificated staff member and a student [*which*] **that** relates to the personal affairs of the student or family of the student, and [*which*] **that** if disclosed would tend to damage or incriminate the student or family. Any violation of the privilege provided by this subsection may result in the suspension of certification of the professional staff member as provided in ORS 342.175, 342.177 and 342.180.

(2) A [*certificated*] **licensed** school counselor regularly employed and designated in [*such*] **that** capacity by a public school [*shall*] **may** not, without the consent of the student, be examined as to any communication made by the student to the counselor in the official capacity of the counselor in any civil action or proceeding or a criminal action or proceeding in which [*such*] **the** student is a party concerning the past use, abuse or sale of drugs, controlled substances or alcoholic liquor. Any violation of the privilege provided by this subsection may result in the suspension of [*certification*] **the license** of the professional school counselor as provided in ORS 342.175, 342.177 and 342.180. However, in the event that the student's condition presents a clear and imminent danger to the student or to others, the counselor shall report this fact to an appropriate responsible authority or take [*such*] other emergency measures [*as*] **that** the situation demands.

NOTE: Adjusts punctuation in (1); improves syntax in (1) and (2); corrects terminology in (2).

SECTION 7. ORS 84.004 is amended to read:

84.004. As used in ORS 84.001 to 84.061:

(1) "Agreement" means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations and procedures given the effect of agreements under laws otherwise applicable to a particular transaction.

(2) "Automated transaction" means a transaction conducted or performed, in whole or in part, by electronic means or electronic records, in which the acts or records of one or both parties are not reviewed by an individual in the ordinary course in forming a contract, performing under an existing contract or fulfilling an obligation required by the transaction.

(3) "Computer program" means a set of statements or instructions to be used directly or indirectly in an information processing system in order to bring about a certain result.

(4) "Contract" means the total legal obligation resulting from the parties' agreement under ORS 84.001 to 84.061 and other applicable law.

(5) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(6) "Electronic agent" means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part, without review or action by an individual.

(7) "Electronic record" means a record created, generated, sent, communicated, received or stored by electronic means.

(8) "Electronic signature" means an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(9) "Governmental agency" means an executive, legislative or judicial agency, department, board, commission, authority, institution or instrumentality of the federal government or of a state or of a county, municipality or other political subdivision of a state.

(10) "Information" means data, text, images, sounds, codes, computer programs, software, databases or the like.

(11) "Information processing system" means an electronic system for creating, generating, sending, receiving, storing, displaying or processing information.

(12) "Person" means an individual, corporation, business trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation or any other legal or commercial entity.

(13) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(14) "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. "Security procedure" includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.

(15) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States. "State" includes an Indian tribe or band or an [*Alaskan native*] **Alaska Native** village[, *which*] **that** is recognized by federal law or formally acknowledged by a state.

(16) "Transaction" means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial or governmental affairs.

NOTE: Updates terminology and improves syntax in (15).

SECTION 8. ORS 90.769 is added to and made a part of ORS 90.505 to 90.850.

NOTE: Adds section to appropriate series.

SECTION 9. ORS 94.575 is amended to read:

94.575. ORS 92.010 to [92.170] **92.192** apply to a planned community established under ORS 94.550 to 94.783.

NOTE: Corrects series reference.

SECTION 10. ORS 100.120 is amended to read:

100.120. (1)(a) To annex additional property to the condominium under ORS 100.125 or to reclassify or redesignate variable property under ORS 100.150 (1), a supplemental declaration and a supplemental plat must be executed, approved and recorded by the declarant in each county in which the property is located at the time of each annexation, reclassification or redesignation as provided in this section.

(b) Withdrawable variable property may not be redesignated nonwithdrawable variable property under this chapter by an amendment to the declaration, plat, supplemental declaration[,] or supplemental plat.

(2) The supplemental plat must comply with ORS 100.115 and the supplemental declarations must:

(a) Include a reference to recording index numbers and date of recording of the initial declaration and bylaws.

(b) Be consistent with the provisions of the original declaration prepared pursuant to ORS 100.105 and any prior recorded supplemental declarations.

(c) Contain the information required by ORS 100.105 (1) insofar as that information relates to the property being annexed or reclassified.

(d) State the allocation of undivided interest in the common elements of each unit previously submitted to the provisions of this chapter upon the creation or annexation of the additional property.

(e) If a stage being annexed contains any variable property, include the information required under ORS 100.105 (7) insofar as that information relates to the property being annexed. The termination date must be consistent with the information included in the declaration in accordance with ORS 100.105 (2)(b) but may not exceed seven years from the recording of the conveyance of the first unit in the stage to a person other than the declarant.

(3) If the Condominium Information Report and the Annual Report described in ORS 100.250 are designated current as provided in ORS 100.255, all supplemental declarations and plats shall be approved, executed and recorded as provided in ORS 100.100, 100.110 and 100.115. A unit being annexed or created by a supplemental declaration may not be conveyed until after the recording.

(4) To withdraw all or a portion of withdrawable variable property from a flexible condominium pursuant to ORS 100.150 (1)(b), a supplemental declaration and plat must be recorded in accordance with subsection (3) of this section. The supplemental plat must comply with ORS 100.115 (2) and the supplemental declaration must:

(a) Be consistent with the provisions of the declaration or supplemental declaration drawn pursuant to ORS 100.105 (7).

(b) Include a metes and bounds legal description of the variable property being withdrawn.

(c) Include a metes and bounds legal description of the resulting boundaries of the condominium after the withdrawal.

(d) State whether any variable property remains that may be reclassified, redesignated or withdrawn from the condominium under ORS 100.150 (1) and, if property may be withdrawn, include the statement required under ORS 100.105 (7)(m).

(e) If any withdrawable variable property is being redesignated as “nonwithdrawable variable property” under ORS 100.150 (1), include the information required under ORS 100.105 (7)(L) and any other information required by rule of the Real Estate Commissioner.

(5) Except as provided in subsection (6) of this section, as to property submitted to unit ownership after October 4, 1977, additional units may not be added within property previously submitted to unit ownership unless all unit owners consent to an amendment to the declaration, plat and any floor plans recorded pursuant to ORS 100.116 in order to provide for such additional units.

(6) As to property submitted to unit ownership before September 27, 1987, if the declaration provides that additional property may be annexed to the condominium, any subsequent stage may contain variable property. The termination date may not be later than the earlier of:

(a) The date specified in the declaration under ORS 100.105 (2)(b); or

(b) Seven years from the recording of the conveyance of the first unit in the condominium to a person other than the declarant.

NOTE: Conforms punctuation to legislative style in (1)(b).

SECTION 11. ORS 105.435 is amended to read:

105.435. (1) A receiver appointed by the court pursuant to ORS 105.420 to 105.455 may, unless specifically limited by the court:

(a) Take possession and control of the property, including the right to enter, modify and terminate tenancies pursuant to ORS 105.105 to [105.161] **105.168**, to charge and collect rents and to apply rents to the costs incurred due to the abatement and receivership;

(b) Negotiate contracts and pay all expenses associated with the operation and conservation of the property, including all utility, fuel, custodial, repair or insurance costs;

(c) Pay all accrued property taxes, penalties, assessments and other charges imposed on the property by a unit of government and any charge accruing during the pendency of the receivership;

- (d) Dispose of any or all abandoned personal property found at the structure;
- (e) Enter into contracts and pay for the performance of any work necessary to complete the abatement; and
- (f) Under such terms and condition as a court allows, enter into financing agreements with public or private lenders and encumber the property to have moneys available to correct the conditions at the property giving rise to the abatement.

(2) A court may approve a charge of an administrative fee for a receiver at an hourly rate approved by the court or at a rate not to exceed 15 percent of the total cost of the abatement.

(3) All abatement work done under ORS 105.420 to 105.455 is exempt from the public contracting statutes set forth in ORS 279C.005, 279C.100 to 279C.125 and 279C.300 to 279C.470 and ORS chapters 279A and 279B, except ORS 279A.125, 279A.250 to 279A.290 and 279B.235.

NOTE: Corrects series citation in (1)(a); improves punctuation in (1)(a) and (b).

SECTION 12. ORS 105.624 is amended to read:

105.624. As used in ORS 105.623 to 105.649:

(1) “Disclaimant” means the person to whom a disclaimed interest or power would have passed had the disclaimer not been made.

(2) “Disclaimed interest” means the interest that would have passed to the disclaimant had the disclaimer not been made.

(3) “Disclaimer” means the refusal to accept an interest in property or a power over property.

(4) “Fiduciary” means a personal representative, trustee, agent acting under a power of attorney or other person authorized to act as a fiduciary with respect to the property of another person.

(5) “Jointly held property” means property held in the name of two or more persons under an arrangement pursuant to which:

(a) All holders have concurrent interests; and

(b) The last surviving holder is entitled to the whole of the property.

(6) “Person” means an individual, corporation, business trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, public corporation or any other legal or commercial entity.

(7) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band, or [*Alaskan native*] **Alaska Native** village, recognized by federal law or formally acknowledged by another state.

(8) “Trust” means:

(a) A charitable or noncharitable express trust, including any additions made to the trust, whenever and however created; and

(b) A trust created pursuant to a statute or judgment that requires the trust to be administered in the same manner as an express trust.

NOTE: Updates terminology in (7).

SECTION 13. ORS 109.704 is amended to read:

109.704. As used in ORS 109.701 to 109.834:

(1) “Abandoned” means left without provision for reasonable and necessary care or supervision.

(2) “Child” means an individual who has not attained 18 years of age.

(3) “Child custody determination” means a judgment or other order of a court providing for the legal custody, physical custody, parenting time or visitation with respect to a child. “Child custody determination” includes a permanent, temporary, initial and modification order. “Child custody determination” does not include an order relating to child support or other monetary obligation of an individual.

(4) “Child custody proceeding” means a proceeding in which legal custody, physical custody, parenting time or visitation with respect to a child is an issue. “Child custody proceeding” includes a proceeding for divorce, separation, neglect, abuse, dependency, guardianship, parentage, termination of parental rights and protection from domestic violence in which the issue may appear.

“Child custody proceeding” does not include a proceeding involving juvenile delinquency, contractual emancipation or enforcement under ORS 109.774 to 109.827.

(5) “Commencement” means the filing of the first pleading in a proceeding.

(6) “Court” means an entity authorized under the law of a state to establish, enforce or modify a child custody determination.

(7) “Home state” means the state in which a child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the commencement of a child custody proceeding. In the case of a child less than six months of age, “home state” means the state in which the child lived from birth with any of the persons mentioned. Any temporary absence of any of the mentioned persons is part of the period.

(8) “Initial determination” means the first child custody determination concerning a particular child.

(9) “Issuing court” means the court that makes a child custody determination for which enforcement is sought under ORS 109.701 to 109.834.

(10) “Issuing state” means the state in which a child custody determination is made.

(11) “Modification” means a child custody determination that changes, replaces, supersedes or is otherwise made after a previous determination concerning the same child, whether or not it is made by the court that made the previous determination.

(12) “Person” means an individual, corporation, public corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government or a governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

(13) “Person acting as a parent” means a person, other than a parent, who:

(a) Has physical custody of the child or has had physical custody for a period of six consecutive months, including any temporary absence, within one year immediately before the commencement of a child custody proceeding; and

(b) Has been awarded legal custody by a court or claims a right to legal custody under the law of this state.

(14) “Physical custody” means the physical care and supervision of a child.

(15) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

(16) “Tribe” means an Indian tribe or band, or [Alaskan] **Alaska** Native village, that is recognized by federal law or formally acknowledged by a state.

(17) “Warrant” means an order issued by a court authorizing law enforcement officers to take physical custody of a child.

NOTE: Updates terminology in (16).

SECTION 14. ORS 114.545 is amended to read:

114.545. (1) The affiant:

(a) Is a fiduciary who is under a general duty to administer, preserve, settle and distribute the estate in accordance with the terms of the will, the law of intestate succession and ORS 114.505 to 114.560 as expeditiously and with as little sacrifice of value as is reasonable under the circumstances.

(b) May not commingle property of the estate of which the affiant has taken possession with property of the affiant or any other person.

(c) Shall take control of the property of the estate coming into the possession of the affiant and collect the income from property of the estate in the possession of the affiant.

(d) Within 30 days after filing the small estate affidavit, shall mail or deliver each instrument that the affidavit states will be mailed or delivered.

(e) May open one or more deposit accounts in a financial institution as defined in ORS 706.008 with funds of the decedent, upon which the affiant may withdraw funds by means of checks, drafts or negotiable orders of withdrawal or otherwise for the payment of claims and expenses described in paragraph (f) of this subsection.

(f) From and to the extent of the property of the estate, shall pay or reimburse any person who has paid:

- (A) Expenses described in ORS 115.125 (1)(b) and (c) and listed in the small estate affidavit;
- (B) Claims listed in the small estate affidavit as undisputed;
- (C) Allowed claims presented to the affiant within the time permitted by ORS 114.540; and
- (D) Claims that the probate court allowed upon summary determination under ORS 114.542.

(g) Shall pay claims and expenses under paragraph (f) of this subsection in the order of priority prescribed by ORS 115.125.

(h) May transfer and sell property that is part of the estate as provided in ORS 114.547.

(i) Shall retain records of the administration of the estate at least until the later of:

- (A) The expiration of the two-year period established in ORS 114.550; or
- (B) The conclusion of any summary review proceeding under ORS 114.550.

(2) Notwithstanding any other provision of this section or ORS 114.547, when an heir or devisee entitled to succeed to a conveyance fails or refuses to join in the conveyance as required by ORS 114.547, an affiant approved under ORS 114.517 may convey any real or personal property that is part of the estate at any time to a third party for a valuable consideration.

(3) Property conveyed by an affiant under ORS 114.547 or this section is subject to liens and encumbrances against the decedent or the estate of the decedent. Property conveyed by an affiant under ORS 114.547 is not subject to rights of creditors of the decedent or liens or encumbrances against the heirs or devisees of the decedent. The presentation and allowance of a claim in a proceeding under ORS 114.505 to 114.560 does not make the claimant a secured creditor.

(4) Any claiming successor to whom property of the estate is delivered or transferred under ORS 114.505 to 114.560 is personally answerable and accountable:

(a) To the extent of the value of the property received, to creditors of the estate to the extent such creditors are entitled to payment under subsection (1) of this section; and

(b) To any personal representative of the estate of the decedent appointed after the payment, delivery or transfer is made.

(5) A financial institution as defined in ORS 706.008 that opens one or more deposit accounts for an affiant pursuant to subsection (1)(e) of this section is not liable to any other person for opening the account or accounts or for permitting the affiant to withdraw funds from the account or accounts by means of checks, drafts, negotiable orders of withdrawal or otherwise. The financial institution is not required to ensure that the funds of the decedent that are paid out by the affiant are properly applied.

NOTE: Corrects punctuation in (1)(d); supplies missing word in (3).

SECTION 15. ORS 127.765 is amended to read:

127.765. (1) As used in this section:

(a) "Attending physician" has the meaning given that term in ORS 127.505.

(b) "Developmental disability" has the meaning given that term in ORS 427.005.

(c) "Emergency treatment" means a procedure or treatment that, if delayed, is likely to:

- (A) Place the health of the individual in serious jeopardy;
- (B) Result in serious impairment to bodily functions; or
- (C) Result in serious dysfunction of any bodily organ.

(d) "Health care advocate" means a person who is authorized to make health care decisions on behalf of an individual if the individual does not have a guardian or a health care representative.

(e) "Health care decision" has the meaning given that term in ORS 127.505.

(f) "Health care representative" has the meaning given that term in ORS 127.505.

(g) "Individual" means an individual with an intellectual or developmental disability who receives services pursuant to an individualized [*written*] service plan.

(h) "Individualized [*written*] service plan" has the meaning given that term in ORS 427.101.

(i) "Individualized [*written*] service plan team" means a group consisting of:

- (A) The individual;
- (B) The individual's legal or designated representative;

(C) The individual's case manager; and
(D) Other individuals who may be chosen by the individual, such as care providers or family members.

(j) "Significant medical procedure" means any medical procedure that requires a hospital admission or the administration of general anesthesia in an outpatient setting.

(k) "Treating physician" means a physician who has primary responsibility for the care and treatment of an individual.

(2) An individualized [*written*] service plan team may appoint a health care advocate for an individual whom a court or a treating physician has determined to be incapable of making health care decisions.

(3) A health care advocate must be a capable adult who is willing to serve as a health care advocate and who is approved by at least two-thirds of the individualized [*written*] service plan team, including the individual, except that the following persons may not serve as a health care advocate:

(a) The individual's attending physician or an employee of the attending physician or any other person providing care to the individual.

(b) A parent whose parental rights are terminated.

(c) A guardian if the guardianship is terminated.

(4) A health care advocate is authorized to access the health records of the individual and consult with the individual's medical providers for the purpose of making health care decisions on behalf of the individual.

(5) A health care advocate may not make health care decisions on behalf of an individual with respect to any of the following:

(a) An action or procedure described in ORS 127.540 (1) to (4).

(b) Withholding or withdrawing of a life-sustaining procedure.

(c) Withholding or withdrawing artificially administered nutrition and hydration other than hyperalimentation.

(d) Testing for HIV, unless testing is necessary for obtaining treatment or care for the individual.

(e) A request for medication for the purpose of ending the individual's life pursuant to ORS 127.805 or other form of assisted suicide.

(f) Euthanasia.

(g) An experimental procedure, unless the procedure has been approved by an institutional review board and is determined by the treating physician to be in the best interest of the individual.

(h) An experimental drug that has not been approved for use by the United States Food and Drug Administration, unless the drug is part of an approved clinical trial and the individual's treating physician has determined that it is in the best interest of the individual.

(i) The use of seclusion or physical or chemical restraints, unless an imminent risk of harm to the individual or others exists but only for as long as the imminent risk continues except in the case of an emergency.

(6) A health care advocate is appointed for a one-year term and may be reappointed as provided in subsection (3) of this section. The individualized [*written*] service plan team may revoke the appointment of a health care advocate by a majority vote.

(7) A health care advocate may not disclose the contents of, and must maintain the confidentiality of, the individual's health information, as required by state and federal laws.

(8) A health care decision by a health care advocate regarding a significant medical procedure or treatment must be approved by a majority of the individualized [*written*] service plan team at an in-person meeting of the team at which the team considers and documents its consideration of:

(a) Alternatives to the procedure or treatment;

(b) Risks and benefits of the procedure or treatment;

(c) The anticipated impact of the procedure or treatment on the individual's well-being;

(d) Any preferences in favor of or against the procedure or treatment communicated by the individual verbally or nonverbally; and

(e) Any additional information that is needed before making the decision.

(9) The individual must participate in the meeting described in subsection (8) of this section unless the individual declines to participate or is unable to participate due to the individual's medical condition.

(10) An individualized [*written*] service plan team must inform an individual of the team's decision to seek a health care advocate for the individual prior to the appointment of the advocate.

(11) A health care advocate must inform an individual of all health care decisions made or considered by the advocate.

(12) An individual has the right to protest any health care decision made by a health care advocate. If the individual protests a health care decision by a health care advocate:

(a) The health care decision is revoked;

(b) The health care advocate's authority is withdrawn with respect to the health care decision that is revoked under paragraph (a) of this subsection; and

(c) The individualized [*written*] service plan team or the health care advocate shall notify the provider whose recommendation is the subject of the health care decision that is revoked under paragraph (a) of this subsection.

(13) The Department of Human Services shall ensure that appropriate training is made available to at least two members of the individual's individualized [*written*] service plan team before a health care advocate may be appointed for the individual.

(14) The department shall adopt rules necessary to carry out the provisions of this section.

NOTE: Updates terminology in (1)(g), (h) and (i), (2), (3), (6), (8), (10), (12)(c) and (13); improves punctuation in (5)(i).

SECTION 16. ORS 161.360 is amended to read:

161.360. (1) If, before or during the trial in any criminal case, the court has reason to doubt the defendant's fitness to proceed by reason of incapacity, the court may order an examination in the manner provided in ORS 161.365.

(2) A defendant may be found incapacitated if, as a result of a qualifying mental disorder, the defendant is unable:

(a) To understand the nature of the proceedings against the defendant; [*or*]

(b) To assist and cooperate with the counsel of the defendant; or

(c) To participate in the defense of the defendant.

NOTE: Deletes extraneous conjunction in (2)(a).

SECTION 17. ORS 192.537 is amended to read:

192.537. (1) Subject to the provisions of ORS 192.531 to 192.549, 659A.303 and 746.135, an individual's genetic information and DNA sample are private and must be protected, and an individual has a right to the protection of that privacy. Any person authorized by law or by an individual or an individual's representative to obtain, retain or use an individual's genetic information or any DNA sample must maintain the confidentiality of the information or sample and protect the information or sample from unauthorized disclosure or misuse.

(2)(a) A person may use an individual's DNA sample or genetic information that is derived from a biological specimen or clinical individually identifiable health information for anonymous research or coded research only if the individual:

(A) Has granted informed consent for the specific anonymous research or coded research project;

(B) Has granted consent for genetic research generally;

(C) Was notified in accordance with ORS 192.538 that the individual's biological specimen or clinical individually identifiable health information may be used for anonymous research or coded research and the individual did not, at the time of notification, request that the biological specimen or clinical individually identifiable health information not be used for anonymous research or coded research; or

(D) Was not notified, due to emergency circumstances, in accordance with ORS 192.538 that the individual's biological specimen or clinical individually identifiable health information may be used for anonymous research or coded research and the individual died before receiving the notice.

(b) Paragraph (a) of this subsection does not apply to biological specimens or clinical individually identifiable health information obtained before July 29, 2005, if an institutional review board operating under ORS 192.547 (1)(b) meets the requirements described in ORS 192.547 (7)(b).

(3) A person may not retain another individual's genetic information or DNA sample without first obtaining authorization from the individual or the individual's representative, unless:

(a) Retention is authorized by ORS 181A.155 or comparable provisions of federal criminal law relating to identification of persons, or is necessary for the purpose of a criminal or death investigation, a criminal or juvenile proceeding, an inquest, or a child fatality review by a county child abuse multidisciplinary team;

(b) Retention is authorized by specific court order pursuant to rules adopted by the Chief Justice of the Supreme Court for civil actions;

(c) Retention is permitted by rules of the Oregon Health Authority for identification of, or testing to benefit blood relatives of, deceased individuals;

(d) Retention is permitted by rules of the authority for newborn screening procedures; or

(e) Retention is for anonymous research or coded research conducted after notification or with consent pursuant to subsection (2) of this section or ORS 192.538.

(4) The DNA sample of an individual from which genetic information has been obtained shall be destroyed promptly upon the specific request of that individual or the individual's representative, unless:

(a) Retention is authorized by ORS 181A.155 or comparable provisions of federal criminal law relating to identification of persons, or is necessary for the purpose of a criminal or death investigation, a criminal or juvenile proceeding, an inquest, or a child fatality review by a county child abuse multidisciplinary team;

(b) Retention is authorized by specific court order pursuant to rules adopted by the Chief Justice of the Supreme Court for civil actions; or

(c) Retention is for anonymous research or coded research conducted after notification or with consent pursuant to subsection (2) of this section or ORS 192.538.

(5) A DNA sample from an individual that is the subject of a research project, other than an anonymous research project, shall be destroyed promptly upon completion of the project or withdrawal of the individual from the project, whichever occurs first, unless the individual or the individual's representative directs otherwise by informed consent.

(6) A DNA sample from an individual for insurance or employment purposes shall be destroyed promptly after the purpose for which the sample was obtained has been accomplished unless retention is authorized by specific court order pursuant to rules adopted by the Chief Justice of the Supreme Court for civil, criminal and juvenile proceedings.

(7) An individual or an individual's representative, promptly upon request, may inspect, request correction of and obtain genetic information from the records of the individual.

(8) Subject to the provisions of ORS 192.531 to 192.549, and to policies adopted by the person in possession of a DNA sample, an individual or the individual's representative may request that the individual's DNA sample be made available for additional genetic testing for medical diagnostic purposes. If the individual is deceased and has not designated a representative to act on behalf of the individual after death, a request under this subsection may be made by the closest surviving blood relative of the decedent or, if there is more than one surviving blood relative of the same degree of relationship to the decedent, by the majority of the surviving closest blood relatives of the decedent.

(9) The Oregon Health Authority shall coordinate the implementation of this section.

(10) Subsections (3) to (8) of this section apply only to a DNA sample or genetic information that is coded, identified or identifiable.

(11) This section does not apply to any law, contract or other arrangement that determines a person's rights to compensation relating to substances or information derived from an individual's DNA sample.

NOTE: Adds punctuation to clarify phrasing in (3)(a) and (4)(a).

SECTION 18. ORS 197.772 is amended to read:

197.772. (1) Notwithstanding any other provision of law, a local government shall allow a property owner to refuse to consent to any form of historic property designation at any point during the designation process. Such refusal to consent shall remove the property from any form of consideration for historic property designation under ORS 358.480 to 358.545 or other law, except for consideration or nomination to the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966, as amended [(16 U.S.C. 470 et seq.)] (54 U.S.C. 300101 et seq.).

(2) [No] A permit for the demolition or modification of property removed from consideration for historic property designation under subsection (1) of this section [shall] **may not** be issued during the 120-day period following the date of the property owner's refusal to consent.

(3) A local government shall allow a property owner to remove from the property a historic property designation that was imposed on the property by the local government.

NOTE: Updates citation of federal Act in (1); improves syntax in (2).

SECTION 19. ORS 200.005 is amended to read:

200.005. As used in ORS 200.005 to 200.075, 200.110, 200.120, 200.160 to 200.200 and 279A.105:

(1) "Contracting agency" has the meaning given that term in ORS 279A.010.

(2) "Contractor" means a person that agrees to legally enforceable terms and conditions under which the person performs services or supplies materials in accordance with a contracting agency's specifications and for the purpose of accomplishing results the contracting agency intends, while retaining control of the means, methods and manner of performing the services or supplying the materials.

(3) "Disadvantaged business enterprise" means a small business concern:

(a) At least 51 percent of which one or more socially and economically disadvantaged individuals own; or

(b) At least 51 percent of the stock of which, if the small business concern is a corporation, is owned by one or more economically disadvantaged individuals who also control and manage the daily business operations of the small business concern.

(4) "Economically disadvantaged individual" means a socially disadvantaged individual for whom diminished capital and credit opportunities have impaired the individual's ability to compete in the free enterprise system as compared to other individuals in the same business area who are not socially disadvantaged individuals.

(5) "Emerging small business" means an independent business concern that:

(a) Has a principal place of business located in this state;

(b) Qualifies as a tier one firm or a tier two firm;

(c) Is properly licensed and legally registered in this state; and

(d) Is not a subsidiary or parent company that belongs to a group of firms that the same individuals own or control if, in the aggregate, the group of firms does not qualify as a tier one firm or a tier two firm.

(6) "Minority individual" means an individual who is a citizen or lawful permanent resident of the United States and is:

(a) African American, having origins in any of the original peoples of Africa;

(b) Hispanic, having Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race;

(c) Asian American, having origins in any of the original peoples of East Asia, Southeast Asia, the Indian subcontinent or the Pacific Islands;

(d) Portuguese, having Portuguese, Brazilian or other Portuguese culture or origin, regardless of race;

(e) American Indian or [Alaskan] **Alaska** Native, having origins in any of the original peoples of North America; or

(f) Any other individual or member of another group that the Certification Office for Business Inclusion and Diversity determines is socially and economically disadvantaged.

(7) “Minority-owned business,” “woman-owned business” or “business that a service-disabled veteran owns” means, as appropriate, a small business concern:

(a) At least 51 percent of which one or more minority individuals, women or service-disabled veterans own and control; or

(b) At least 51 percent of the stock of which, if the small business concern is a corporation, is owned by one or more minority individuals, women or service-disabled veterans who also control and manage the daily business operations of the small business concern.

(8) “Responsible bidder or proposer” means a bidder or proposer that the Governor’s Policy Advisor for Economic and Business Equity determines has undertaken both a policy and practice of actively pursuing participation by minority-owned businesses, woman-owned businesses, businesses that service-disabled veterans own or emerging small businesses in all of the bidder’s or proposer’s bids or proposals, both public and private.

(9) “Service-disabled veteran” means a veteran who has a United States Department of Veterans Affairs disability rating of at least zero percent as a result of an injury or illness that the veteran incurred, or that was aggravated, during active military service and who received a discharge or release under other than dishonorable conditions.

(10) “Small business concern” means a small business, as defined by the United States Small Business Administration in 13 C.F.R. part 121, as in effect on January 1, 2016.

(11) “Socially disadvantaged individual” means an individual who has been subjected to racial or ethnic prejudice or cultural bias, without regard to individual qualities, because of the individual’s identity as a member of a group.

(12) “State contracting agency” has the meaning given that term in ORS 279A.010.

(13) “Subcontractor” means a contractor that does not have a direct contractual relationship with a contracting agency.

(14) “Tier one firm” means a business that employs not more than 19 full-time equivalent employees and has average annual gross receipts for the last three years that do not exceed an amount that the Oregon Business Development Department specifies by rule.

(15) “Tier two firm” means a business that employs not more than 29 full-time equivalent employees and has average annual gross receipts for the last three years that do not exceed an amount that the Oregon Business Development Department specifies by rule.

(16) “Woman” means a person of the female gender who is a citizen or lawful permanent resident of the United States.

NOTE: Updates terminology in (6)(e).

SECTION 20. ORS 265.200 is added to and made a part of ORS chapter 265.

NOTE: Adds section to appropriate chapter.

SECTION 21. ORS 276.093 is amended to read:

276.093. As used in ORS 276.093 to 276.098 and 276.440:

(1) “Commercial activities” includes, but is not limited to, restaurants, food stores, craft stores, dry goods stores and display facilities.

(2) “Cultural activities” includes, but is not limited to, film, dramatic, dance and musical presentations, fine arts exhibits, studios and public meeting places, whether or not used by persons, firms or organizations intending to make a profit.

(3) “Director” means the Director of the Oregon Department of Administrative Services.

(4) “Educational activities” includes, but is not limited to, libraries, schools, child care facilities, laboratories and lecture and demonstration facilities.

(5) “Historical, architectural or cultural significance” includes, but is not limited to, buildings listed or eligible to be listed on the National Register of Historic Places under [section 101 of] the

National Historic Preservation Act of October 15, 1966 [(16 U.S.C. 470a)] (54 U.S.C. 300101 et seq.).

(6) “Recreational activities” includes, but is not limited to, gymnasiums and related facilities.

(7) “State building” means all state buildings under the control of the Oregon Department of Administrative Services.

(8) “Unit of local government” means any city or county, or other political subdivision of the state.

NOTE: Updates citation of federal Act in (5).

SECTION 22. ORS 283.398 is amended to read:

283.398. (1) As used in this section and ORS 283.401, “zero-emission vehicle” means a battery electric vehicle, a plug-in hybrid electric vehicle or a hydrogen fuel cell vehicle or any type of vehicle defined by the State Department of Energy or the Environmental Quality Commission by rule as a “zero-emission vehicle” if the vehicle’s type and fuel are consistent with the goals set forth in this section.

(2) The Legislative Assembly finds that:

(a) Motor vehicle emissions contribute significantly to air pollution in this state.

(b) In [2019] 2018, the Oregon transportation sector was responsible for approximately 40 percent of this state’s greenhouse gas emissions, and light-duty vehicles were responsible for more than half of the transportation sector’s emissions.

(c) Motor vehicle emissions, especially greenhouse gases, are difficult to reduce and will rise over time if not limited by additional laws and regulations.

(d) Absent significant changes in the types of motor vehicles used by people and businesses in Oregon, the state will not meet the greenhouse gas emissions reduction goals set forth in ORS 468A.205.

(e) In ORS 757.357, the Legislative Assembly found that transportation electrification is necessary to reduce petroleum use, achieve optimum levels of energy efficiency and carbon reduction, meet federal and state air quality standards, meet this state’s greenhouse gas emissions reduction goals set forth in ORS 468A.205 and improve the public health and safety.

(f) Existing federal and state incentives and programs are insufficient to transform the motor vehicle market on a timeline that will protect Oregonians from the worst impacts of global climate change.

(g) The purchase and ownership of zero-emission vehicles can reduce the overall energy costs paid by Oregon households and the specific costs associated with meeting transportation needs.

(h) A robust and well-operating market for zero-emission vehicles is essential to meeting this state’s greenhouse gas emissions reduction goals.

(i) Certain residents and communities face greater barriers to purchasing or leasing zero-emission vehicles, and additional support and innovative solutions are necessary to ensure that all Oregon households benefit from transportation electrification.

(3) The Legislative Assembly declares the following goals:

(a) Transformation of the motor vehicle market must occur no later than 2035.

(b) Programs and support must be provided to accelerate Oregonians’ purchase and use of zero-emission vehicles until greenhouse gas emissions from vehicles are declining at a rate consistent with this state’s greenhouse gas emissions reduction goals set forth in ORS 468A.205.

(c) The adoption and use of zero-emission vehicles must be evaluated regularly to determine whether the rate of the adoption and use of zero-emission vehicles will put the state on course to meet its greenhouse gas emissions reduction goals.

(4) To promote acquisition and use of zero-emission vehicles, all entities of the executive department, as defined in ORS 174.112, shall lead by example by:

(a) Purchasing or leasing light-duty or medium-duty zero-emission vehicles, consistent with ORS 283.327, when purchasing or leasing vehicles;

(b) Adopting policies and rules that promote the goals set forth in this section; and

(c) Considering recommendations submitted in the report required by ORS 283.401 that relate to zero-emission vehicles and adopting the recommendations when feasible.

NOTE: Corrects year referenced in (2)(b).

SECTION 23. ORS 327.254 is amended to read:

327.254. (1) The Department of Education shall use moneys in the Statewide Education Initiatives Account to provide funding for statewide education initiatives, including:

(a) Funding the High School Graduation and College and Career Readiness Act at the levels prescribed by ORS 327.856;

(b) Expanding school breakfast and lunch programs;

(c) Operating youth reengagement programs or providing youth reengagement services;

(d) Establishing and maintaining the Statewide School Safety and Prevention System under ORS 339.341;

(e) Developing and providing statewide equity initiatives, including the black or African-American education plan developed under ORS 329.841, the American Indian or [Alaskan] **Alaska** Native education plan developed under ORS 329.843, the Latino or Hispanic education plan developed under ORS 329.845 or any similar education plan identified by the department;

(f) Providing summer learning programs at schools that are considered high poverty under Title I of the federal Elementary and Secondary Education Act of 1965;

(g) Funding early warning systems to assist students in graduating from high school, as described in ORS 327.367;

(h) Developing and implementing professional development programs and training programs, including programs that increase educator diversity and retain diverse educators;

(i) Planning for increased transparency and accountability in the public education system of this state;

(j) Providing additional funding to school districts participating in the intensive program under ORS 327.222;

(k) Providing technical assistance, including costs incurred for:

(A) The coaching program described in ORS 327.214; and

(B) The intensive program described in ORS 327.222, including costs for student success teams;

(L) Funding education service districts, as described in subsection (2) of this section; and

(m) Funding costs incurred by the department in implementing this section and ORS 327.175 to 327.235 and 327.274.

(2)(a) The amount of a distribution to an education service district under this section = the education service district's ADMw × (the total amount available for distribution to education service districts in each biennium ÷ the total ADMw of all education service districts that receive a distribution).

(b) For purposes of this subsection, ADMw equals the ADMw as calculated under ORS 327.013, except that the additional amount allowed for students who are in poverty families, as determined under ORS 327.013 (1)(c)(A)(v)(I), shall be 0.5.

(c) An education service district shall use moneys received under this section as provided by a plan developed by the school districts located within the education service district. A school district that declines to participate in the development of the plan or that has withdrawn from an education service district as provided by ORS 334.015 is not entitled to any moneys distributed to the education service district under this subsection.

(d) A plan developed under this subsection must:

(A) Align with and support school districts in meeting the performance growth targets of the school districts developing the plan;

(B) Include the provision of technical assistance to school districts in developing, implementing and reviewing a plan for receiving a grant from the Student Investment Account;

(C) Provide for coordination with the department in administering and providing technical assistance to school districts, including coordinating any coaching programs established under ORS 327.214; and

(D) Be adopted and amended as provided for local service plans under ORS 334.175 and approved by the department.

(e) Each education service district must submit an annual report to the department that:

(A) Describes how the education service district spent moneys received under this subsection; and

(B) Includes an evaluation of the education service district's compliance with the plan from the superintendent of each school district that participated in the development of the plan.

(3) The State Board of Education shall adopt rules necessary for the distribution of moneys under this section.

NOTE: Updates terminology in (1)(e).

SECTION 24. ORS 329.451 is amended to read:

329.451. (1)(a) At or before grade 12, a school district or public charter school shall award a high school diploma to a student who completes the requirements established by subsection (2) of this section.

(b) A school district or public charter school shall award a modified diploma to a student who satisfies the requirements established by subsection (7) of this section, an extended diploma to a student who satisfies the requirements established by subsection (8) of this section or an alternative certificate to a student who satisfies the requirements established by subsection (9) of this section.

(c) A school district or public charter school may not deny a student who has the documented history described in subsection (7)(b) or (8)(b) of this section the opportunity to pursue a diploma with more stringent requirements than a modified diploma or an extended diploma for the sole reason that the student has the documented history.

(d) A school district or public charter school may award a modified diploma or extended diploma to a student only upon receiving consent as provided by subsection (6) of this section.

(2)(a) In order to receive a high school diploma from a school district or public charter school, a student must satisfy the requirements established by the State Board of Education and the school district or public charter school and, while in grades 9 through 12, must complete at least:

(A) Twenty-four total credits;

(B) Three credits of mathematics; and

(C) Four credits of English.

(b) If a school district or public charter school requires a student to complete more than 24 total credits, as provided by paragraph (a)(A) of this subsection, the school district or public charter school may only require the student to complete additional credits for:

(A) Subjects for which the State Board of Education has established academic content standards under ORS 329.045;

(B) Courses provided as part of a career and technical education program; or

(C) Courses that provide, or qualify to provide, credit at post-secondary institutions of education.

(c)(A) A school district or public charter school that requires students to satisfy any requirements not specified by paragraph (a) of this subsection or by rule of the State Board of Education must grant to a student a waiver of the requirements established by the school district or public charter school if the student is or, at any time from grade 9 to 12, was:

(i) A foster child, as defined in ORS 30.297;

(ii) Homeless, as determined under rules adopted by the State Board of Education based on standards adopted by the Department of Human Services;

(iii) A runaway, as determined under rules adopted by the State Board of Education based on standards adopted by the Department of Human Services;

(iv) A child in a military family covered by the Interstate Compact on Educational Opportunity for Military Children, as determined under rules adopted by the State Board of Education;

(v) A child of a migrant worker, as determined under rules adopted by the State Board of Education; or

(vi) Enrolled in the Youth Corrections Education Program or the Juvenile Detention Education Program.

(B) For any student identified under subparagraph (A) of this paragraph, a school district or public charter school must accept any credits earned by the student in another school district or public charter school and apply those credits toward requirements specified by paragraph (a) of this subsection or by rule of the State Board of Education if the credits satisfied those requirements in that other school district or public charter school.

(3) A student providing work samples to demonstrate proficiency in Essential Learning Skills as may be required under subsection (2) of this section must be allowed to use accommodations described in the student's individualized education program or the student's plan developed in accordance with section 504 of the Rehabilitation Act of [1978] **1973**, 29 U.S.C. 794. As used in this subsection, the term "accommodations":

(a) Includes, but is not limited to:

(A) Additional time to demonstrate proficiency.

(B) The ability to demonstrate proficiency in an alternative location that is secure and proctored.

(C) The use of text-to-speech or speech-to-text technology or other assistive technology.

(b) Does not include modifications that lower the proficiency standards or that are used solely to earn modified credit.

(4) A student may satisfy the requirements of subsection (2) of this section in less than four years. If a student satisfies the requirements of subsection (2) of this section and a school district or public charter school has received consent as provided by subsection (6) of this section, the school district or public charter school shall award a high school diploma to the student.

(5) If a school district or public charter school has received consent as provided by subsection (6) of this section, the school district or public charter school may advance the student to the next grade level if the student has satisfied the requirements for the student's current grade level.

(6)(a) For the purpose of receiving consent as provided by subsections (1)(d), (4) and (5) of this section, consent shall be provided by:

(A) The parent or guardian of the student, if the student:

(i) Is under 18 years of age and is not emancipated pursuant to ORS 419B.550 to 419B.558; or

(ii) Has been determined not to have the ability to give informed consent regarding the student's education pursuant to a protective proceeding under ORS chapter 125; or

(B) The student, if the student is 18 years of age or older or is emancipated pursuant to ORS 419B.550 to 419B.558.

(b) For the purpose of awarding a modified diploma or extended diploma as provided by subsection (1)(d) of this section or of awarding a high school diploma as provided by subsection (4) of this section, consent must be received during the school year for which the diploma will be awarded.

(7) A school district or public charter school shall award a modified diploma only to students who have demonstrated the inability to meet the full set of academic content standards for a high school diploma with reasonable modifications and accommodations. To be eligible for a modified diploma, a student must:

(a) Satisfy the requirements for a modified diploma established by the State Board of Education; and

(b) Have a documented history of an inability to maintain grade level achievement due to significant learning and instructional barriers or have a documented history of a medical condition that creates a barrier to achievement.

(8) A school district or public charter school shall award an extended diploma only to students who have demonstrated the inability to meet the full set of academic content standards for a high school diploma with reasonable modifications and accommodations. To be eligible for an extended diploma, a student must:

(a) While in grade nine through completion of high school, complete 12 credits, which may not include more than six credits earned in a self-contained special education classroom and shall include:

(A) Two credits of mathematics;

- (B) Two credits of English;
 - (C) Two credits of science;
 - (D) Three credits of history, geography, economics or civics;
 - (E) One credit of health;
 - (F) One credit of physical education; and
 - (G) One credit of the arts or a world language; and
- (b) Have a documented history of:
- (A) An inability to maintain grade level achievement due to significant learning and instructional barriers;
 - (B) A medical condition that creates a barrier to achievement; or
 - (C) A change in the student's ability to participate in grade level activities as a result of a serious illness or injury that occurred after grade eight.
- (9) A school district or public charter school shall award an alternative certificate to a student who does not satisfy the requirements for a high school diploma, a modified diploma or an extended diploma if the student meets requirements established by the board of the school district or public charter school.
- (10) A student shall have the opportunity to satisfy the requirements of subsection (7), (8) or (9) of this section by the later of:
- (a) Four years after starting grade nine; or
 - (b) The student reaching the age of 21 years, if the student is entitled to a public education until the age of 21 years under state or federal law.
- (11)(a) A student may satisfy the requirements described in subsection (7), (8) or (9) of this section in less than four years if consent is provided in the manner described in subsection (6)(a) of this section.
- (b) The consent provided under this subsection must be written and must clearly state that the parent, guardian or student is waiving the time allowed under subsection (10) of this section. A consent may not be used to allow a student to satisfy the requirements of subsection (7), (8) or (9) of this section in less than three years.
- (c) A copy of all consents provided under this subsection for students in a school district must be forwarded to the district superintendent.
- (d) Each school district must provide to the Superintendent of Public Instruction information about the number of consents provided during a school year.
- (12)(a) A student who qualifies to receive or receives a modified diploma, an extended diploma or an alternative certificate shall:
- (A) Have the option of participating in a high school graduation ceremony with the class of the student; and
 - (B) Have access to instructional hours, hours of transition services and hours of other services that are designed to:
 - (i) Meet the unique needs of the student; and
 - (ii) When added together, provide a total number of hours of instruction and services to the student that equals at least the total number of instructional hours that is required to be provided to students who are attending a public high school.
- (b)(A) The number of instructional hours, hours of transition services and hours of other services that are appropriate for a student shall be determined by the student's individualized education program team. Based on the student's needs and performance level, the student's individualized education program team may decide that the student will not access the total number of hours of instruction and services to which the student has access under paragraph (a)(B) of this subsection.
- (B) A school district may not unilaterally decrease the total number of hours of instruction and services to which the student has access under paragraph (a)(B) of this subsection, regardless of the age of the student.

(c) If a student's individualized education program team decides that the student will not access the total number of hours of instruction and services to which the student has access under paragraph (a)(B) of this subsection, the school district shall annually:

(A) Provide the following information in writing to the parent or guardian of the student:

(i) The school district's duty to comply with the requirements of paragraph (a)(B) of this subsection; and

(ii) The prohibition against a school district's unilaterally decreasing the total number of hours of instruction and services to which the student has access.

(B) Obtain a signed acknowledgment from the parent or guardian of the student that the parent or guardian received the information described in subparagraph (A) of this paragraph.

(C) Include in the individualized education program for the student a written statement that explains the reasons the student is not accessing the total number of hours of instruction and services to which the student has access under paragraph (a)(B) of this subsection.

(d) For purposes of paragraph (a)(B) of this subsection, transition services and other services designed to meet the unique needs of the student may be provided to the student through an interagency agreement entered into by the school district if the individualized education program developed for the student indicates that the services may be provided by another agency. A school district that enters into an interagency agreement as allowed under this paragraph retains the responsibility for ensuring that the student has access to the number of service hours required to be provided to the student under this subsection. An agency is not required to change any eligibility criteria or enrollment standards prior to entering into an interagency agreement as provided by this paragraph.

(13) A school district or public charter school shall:

(a) Ensure that students have on-site access to the appropriate resources to achieve a high school diploma, a modified diploma, an extended diploma or an alternative certificate at each high school in the school district or at the public charter school.

(b) Provide literacy instruction to all students until graduation.

(c) Annually provide, to the parents or guardians of a student who has the documented history described in subsection (8)(b) of this section, information about the availability of a modified diploma, an extended diploma and an alternative certificate and the requirements for the diplomas and certificate:

(A) Beginning in grade five; or

(B) Beginning after a documented history described in subsection (8)(b) of this section has been established.

(14) A school district or public charter school shall allow a student to participate in the high school graduation ceremony with the class of the student and to wear a dress uniform issued to the student by a branch of the Armed Forces of the United States if the student:

(a) Qualifies to receive a high school diploma, a modified diploma, an extended diploma or an alternative certificate under this section; and

(b) Has completed basic training for, and is an active member of, a branch of the Armed Forces of the United States.

NOTE: Corrects name of federal Act in (3).

SECTION 25. ORS 329.841 is amended to read:

329.841. (1) For the purposes of this section, "plan student" means a student enrolled in early childhood through post-secondary education who:

(a) Is black or African-American or a member of a student group that is not covered under an existing culturally specific statewide education plan; and

(b) Has experienced disproportionate results in education due to historical practices, as identified by the State Board of Education by rule.

(2)(a) The Department of Education shall develop and implement a statewide education plan for plan students.

(b) The department shall form an advisory group consisting of community members, education stakeholders and representatives of the Early Learning Division, the Youth Development Division and the Higher Education Coordinating Commission to advise the department regarding:

(A) Development and implementation of the plan;

(B) Eligibility criteria, applicant selection process and expectations for recipients of grant awards described in this section; and

(C) Adoption of rules by the State Board of Education for the implementation of the plan.

(3) The plan developed under this section shall address:

(a) The disparities experienced by plan students in every indicator of academic success, as documented by the department's statewide report card;

(b) The historical practices leading to disproportionate outcomes for plan students; and

(c) The educational needs of plan students from early childhood through post-secondary education by examining culturally appropriate best practices in this state and across the nation.

(4) The plan developed and implemented under this section must provide strategies to:

(a) Address the disproportionate rate of disciplinary incidents for plan students compared to all students in the education system;

(b) Increase parental engagement in the education of plan students;

(c) Increase the engagement of plan students in educational activities before and after regular school hours;

(d) Increase early childhood and kindergarten readiness for plan students;

(e) Improve literacy and numeracy levels among plan students between kindergarten and grade three;

(f) Support plan student transitions to middle school and through the middle and high school grades to maintain and improve academic performance;

(g) Support culturally responsive pedagogy and practices from early childhood through post-secondary education;

(h) Support the development of culturally responsive curricula from early childhood through post-secondary education;

(i) Increase attendance of plan students in community colleges and professional certification programs; and

(j) Increase attendance of plan students in four-year post-secondary institutions of education.

(5) The department shall submit a biennial report concerning the progress of the plan developed and implemented under this section at each even-numbered year regular session of the Legislative Assembly in the manner provided by ORS 192.245 to an interim committee of the Legislative Assembly related to education.

(6) The department, in consultation with the advisory group, shall award grants to [*early learning hubs*] **Early Learning Hubs**, providers of early learning services, school districts, post-secondary institutions of education and community-based organizations to implement the strategies developed in the plan developed and implemented under this section.

(7) To qualify for and receive a grant described in this section, an applicant must identify and demonstrate that the applicant meets the eligibility criteria established by the State Board of Education by rule.

NOTE: Corrects capitalization in (6).

SECTION 26. ORS 329.843 is amended to read:

329.843. (1) As used in this section, "plan student" means a student enrolled in early childhood through post-secondary education who:

(a) Is an American Indian or [*Alaskan*] **Alaska** Native; and

(b) Has experienced disproportionate results in education due to historical practices, as identified by the State Board of Education by rule.

(2)(a) The Department of Education shall develop and implement a statewide education plan for plan students.

(b) When developing the plan, the department shall consult with representatives from tribal governments and from executive branch agencies who have formed government-to-government relations to focus on education. Additionally, the department may receive input from an advisory group consisting of community members, education stakeholders and representatives of the Early Learning Division, the Youth Development Division and the Higher Education Coordinating Commission.

(c) The department shall be responsible for:

(A) Implementing the plan developed under this subsection;

(B) Developing eligibility criteria, the applicant selection process and expectations for recipients of grant awards described in this section; and

(C) Advising the State Board of Education on the adoption of rules under this section.

(3) The plan developed under this section must address:

(a) The disparities experienced by plan students in every indicator of academic success, as documented by the department's statewide report card and other relevant reports related to plan students;

(b) The historical practices leading to disproportionate outcomes for plan students; and

(c) The educational needs of plan students from early childhood through post-secondary education as determined by examining culturally appropriate best practices in this state and across the nation.

(4) The plan developed and implemented under this section must provide strategies to:

(a) Address the disproportionate rate of disciplinary incidents involving plan students as compared to all students in the education system;

(b) Increase parental engagement in the education of plan students;

(c) Increase the engagement of plan students in educational activities before and after regular school hours;

(d) Increase early childhood education and kindergarten readiness for plan students;

(e) Improve literacy and numeracy levels among plan students between kindergarten and grade three;

(f) Support plan student transitions to middle school and through the middle school and high school grades to maintain and improve academic performance;

(g) Support culturally responsive pedagogy and practices from early childhood through post-secondary education;

(h) Support the development of culturally responsive curricula from early childhood through post-secondary education;

(i) Increase attendance of plan students in early childhood programs through post-secondary and professional certification programs; and

(j) Increase attendance of plan students in four-year post-secondary institutions of education.

(5) The department shall submit a biennial report concerning the progress of the plan developed and implemented under this section to a committee of the Legislative Assembly related to education at each even-numbered year regular session of the Legislative Assembly.

(6) The department, in consultation with the advisory group, shall award grants to [*early learning hubs*] **Early Learning Hubs**, providers of early learning services, school districts, education service districts, post-secondary institutions of education, tribal governments and community-based organizations to implement the strategies provided in the plan developed and implemented under this section.

(7) To qualify for and receive grants described in this section, an applicant must identify and demonstrate that the applicant meets the eligibility criteria adopted by the State Board of Education by rule.

NOTE: Updates terminology in (1)(a); corrects capitalization in (6).

SECTION 27. ORS 329.845 is amended to read:

329.845. (1) As used in this section, "plan student" means a student enrolled in early childhood through post-secondary education who:

(a) Is Latino or Hispanic, including individuals of Mexican, Cuban, Puerto Rican, South American, Central American or Spanish descent; and

(b) Has experienced disproportionate results in education due to historical practices, as identified by the State Board of Education by rule.

(2)(a) The Department of Education shall develop and implement a statewide education plan for plan students.

(b) The department shall form an advisory group consisting of individuals representing:

(A) Urban and rural communities;

(B) Indigenous and immigrant populations;

(C) English language learners;

(D) Individuals with disabilities;

(E) Parents and students;

(F) Youth who are lesbian, gay, bisexual, transgender, queer or another minority gender or sexual orientation;

(G) Community-based organizations serving Latino or Hispanic youth and families; and

(H) Education stakeholders, including representatives of the Early Learning Division, the Youth Development Division and the Higher Education Coordinating Commission.

(c) The advisory group formed as provided in paragraph (b) of this subsection shall advise the department regarding:

(A) Development and implementation of the plan;

(B) Eligibility criteria, applicant selection processes and expectations for recipients of grant awards described in this section; and

(C) Adoption of rules by the State Board of Education for the implementation of the plan.

(3) The plan developed under this section must address:

(a) The disparities experienced by plan students in every indicator of academic success, as documented by the department's statewide report card and other relevant reports related to plan students;

(b) The historical practices leading to disproportionate outcomes for plan students; and

(c) The educational needs of plan students from early childhood through post-secondary education as determined by examining culturally appropriate best practices in this state and across the nation.

(4) The plan developed and implemented under this section must provide strategies to:

(a) Address the disproportionate rate of disciplinary incidents involving plan students compared to all students in the education system;

(b) Increase parental engagement in the education of plan students;

(c) Increase the engagement of plan students in educational activities before and after regular school hours;

(d) Increase early childhood education and kindergarten readiness for plan students;

(e) Improve literacy and numeracy levels among plan students between kindergarten and grade three;

(f) Support plan student transitions to middle school and through the middle school and high school grades to maintain and improve academic performance;

(g) Support culturally responsive pedagogy and practices from early childhood through post-secondary education;

(h) Support the development of culturally responsive curricula from early childhood through post-secondary education;

(i) Increase attendance of plan students in community colleges and professional certification programs; and

(j) Increase attendance of plan students in four-year post-secondary institutions of education.

(5) The department shall submit a biennial report concerning the progress of the plan developed and implemented under this section to a committee of the Legislative Assembly related to education at each even-numbered year regular session of the Legislative Assembly.

(6) The department, in consultation with the advisory group, shall award grants to [early learning hubs] **Early Learning Hubs**, providers of early learning services, school districts, post-secondary institutions of education and community-based organizations to implement the strategies provided in the plan developed and implemented under this section.

(7) To qualify for and receive a grant described in this section, an applicant must identify and demonstrate that the applicant meets the eligibility criteria established by the State Board of Education by rule.

NOTE: Corrects capitalization in (6).

SECTION 28. ORS 332.531 is amended to read:

332.531. (1) The district school board of any school district may establish a law enforcement agency and employ such personnel as may be necessary to [insure] **ensure** the safety of school district personnel and students upon and in the vicinity of school district premises and the security of the real and personal property owned, controlled or used by or on behalf of the school district.

(2) Persons employed and compensated as members of a law enforcement agency of a school district, when appointed and duly sworn, are peace officers as defined in ORS 161.015 (4), but only for the purpose of carrying out the duties of their employment. They are not police officers within the meaning of ORS 243.736.

(3) The district school board may:

(a) Provide for uniforms, badges[,] and other identification of members of [such] **the** law enforcement agency;

(b) Withdraw or withhold from any person employed as a member of [such] **the** law enforcement agency any part or all of the powers otherwise conferred by law upon peace officers; and

(c) Define the duties of persons employed as members of [such] **the** law enforcement agency and assign additional duties to [such] **those** persons as [it] **the district school board** may deem appropriate.

(4) Between meetings of the district school board, the district superintendent or the deputy of the superintendent shall have power to suspend any person employed as a member of [such] **the** law enforcement agency pending review of [such] **the** action as soon as practicable by the district school board.

NOTE: Improves word choice in (1); conforms punctuation to legislative style in (3)(a); modernizes syntax in (3)(a), (b) and (c) and (4); eliminates indefinite pronoun in (3)(c).

SECTION 29. ORS 337.514 is amended to read:

337.514. The purpose of ORS 337.511 to 337.524 is to ensure, to the maximum extent possible, that all post-secondary students with print disabilities in Oregon who require reading accommodations, in accordance with section 504 of the Rehabilitation Act of [1978] **1973**, 29 U.S.C. 794, or the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq., shall have equal and effective access, in alternative format, to instructional materials provided by a post-secondary education institution.

NOTE: Corrects name of federal Act.

SECTION 30. ORS 339.127 is amended to read:

339.127. (1) A district school board that admits nonresident students by giving consent as described in ORS 339.133 (5)(a) may not consider race, religion, sex, sexual orientation, ethnicity, national origin, disability, health, whether a student has an individualized education program, the terms of an individualized education program, income level, residence, proficiency in the English language, athletic ability or academic records when:

(a) Determining whether to give consent; or

(b) Establishing any terms of consent.

(2) A district school board that is considering whether to admit a nonresident student by giving consent may require only the following information prior to deciding whether to give consent:

(a) The name, contact information, date of birth and grade level of the student;

(b) Information about whether the school district may be prevented or otherwise limited from providing consent as provided by ORS 339.115 (8);

(c) Information about whether the student may be given priority as provided by subsection (4) of this section; and

(d) Information about which schools the student prefers to attend.

(3)(a) A district school board that is considering whether to admit a nonresident student by giving consent may not:

(A) Request or require any person to provide or have provided any of the following information related to a student prior to the district school board deciding whether to give consent to the student:

(i) Information about the student's race, religion, sex, sexual orientation, ethnicity, national origin, disability, health, whether a student has an individualized education program, the terms of an individualized education program, income level, residence, proficiency in the English language or athletic ability; or

(ii) Academic records, including eligibility for or participation in a talented and gifted program or special education and related services.

(B) Request or require the student to participate in an interview, to tour any of the schools or facilities of the school district or to otherwise meet with any representatives of a school or a school district prior to the district school board deciding whether to give consent to the student.

(C) Request any information used to supplement the information described in subsection (2) of this section prior to deciding whether to give consent to the student.

(b) Nothing in this subsection prevents a student from voluntarily touring any of the schools or facilities of a school district or from requesting or receiving any information from a school or the school district.

(4)(a) A district school board that gives consent as described in ORS 339.133 (5)(a) may limit the number of students to whom consent is given. The district school board must make the determination whether to limit the number of students to whom consent is given by an annual date established by the board.

(b) If the number of students seeking consent exceeds any limitations imposed by the district school board, the board must give consent to students based on an equitable lottery selection process. The process may give priority to students who:

(A) Have siblings currently enrolled in a school of the same school district for which the student seeks admission;

(B) Previously had received consent as provided by subsection (10) of this section because of a change in legal residence; or

(C) Attended a public charter school located in the same district for which the student seeks admission for at least three consecutive years, completed the highest grade offered by the public charter school and did not enroll in and attend school in another district following completion of the highest grade offered by the public charter school.

(c) A district school board may revise the maximum number of students to whom consent will be given at a time other than the annual date established by the board if there are no pending applications for consent.

(5) A district school board that is requested to give consent to allow a resident student to be admitted by another school district as described in ORS 339.133 (5)(a) may not consider race, religion, sex, sexual orientation, ethnicity, national origin, disability, health, whether a student has an individualized education program, the terms of an individualized education program, income level, residence, proficiency in the English language, athletic ability or academic records when determining whether to give consent.

(6) If a district school board decides to not give consent to a student, the board must provide a written explanation to the student.

(7)(a) For a nonresident student who receives consent to be admitted to a school district as described in ORS 339.133 (5)(a), a district school board may:

(A) Determine the length of time for which consent is given; and

(B) Revoke consent for failure to comply with minimum standards for behavior or attendance, but may not revoke consent for failure to meet standards for academics.

(b) Any limitations in length of time for consent, as allowed under paragraph (a) of this subsection, must be applied consistently among all students to whom consent is given. The length of time for which consent is given shall not be affected by any changes in the legal residence of the student if the student wishes to continue to attend the schools of the school district.

(c) If consent is revoked as provided by paragraph (a) of this subsection, a student may not request consent from the same school district that revoked the consent for the school year following the school year in which the consent was revoked.

(8) For a resident student who receives consent to be admitted to another school district as described in ORS 339.133 (5)(a), a district school board may not impose any limitations on the length of time for which consent is given to the student. The board may not require the student to receive consent more than one time to be admitted to the same school district, regardless of any time limitations imposed by the district school board under [*paragraph (a) of this*] subsection **(7)(a)(A) of this section**.

(9)(a) A school district that provides consent to nonresident students to attend the schools of the school district may not expend moneys received from the State School Fund or as Local Revenues, as described in ORS 327.011, to advertise openings for nonresident students if the advertisements are:

(A) Located outside the boundaries of the school district, including advertisements that are made by signage or billboards; or

(B) Directed to nonresident students, including:

(i) Advertisements that are targeted to nonresident students through direct mail or online marketing;

(ii) Television or radio advertisements; or

(iii) Newspaper advertisements, unless the advertisement is in a newspaper that primarily serves the residents of the school district.

(b) Notwithstanding paragraph (a)(A) of this subsection, if a school is located outside the boundaries of the school district, the school district may advertise openings for nonresident students on the property of the school.

(c) Nothing in this subsection:

(A) Prohibits a school district from providing information or advertisements to nonresident students if the parents of the students request the information or advertisements.

(B) Prohibits a public charter school from advertising openings.

(10) Notwithstanding any other provision of this section, a district school board that is requested to give consent as described in ORS 339.133 (5)(a) must give consent to a student whose legal residence changes to a different school district:

(a) During the school year, to enable the student to complete the school year in the school district; or

(b) During the summer prior to the school year, to enable the student to complete the school year following the summer in the school district.

(11) Nothing in this section:

(a) Requires a district school board to admit students for whom priority may be given under subsection (4)(b) of this section if the board imposes limitations on the number of students admitted by consent.

(b) Prevents a district school board from denying admission to a nonresident student as provided by ORS 339.115 (8).

(c) Prevents a district school board from requesting information or giving consent to a student in the event of:

(A) An emergency to protect the health, safety or welfare of the student; or

(B) A hardship of the student, as determined based on rules adopted by the State Board of Education.

(d) Prevents a district school board from establishing minimum standards for behavior and attendance that a student must maintain to remain enrolled in the schools of the school district.

NOTE: Corrects internal reference in (8).

SECTION 31. ORS 339.329 is amended to read:

339.329. (1) As used in this section:

(a) "Cyberbullying" and "harassment, intimidation or bullying" have the meanings given those terms in ORS 339.351.

(b) "Local law enforcement contact" means a local law enforcement officer designated by the Department of State Police to be notified when the tip line receives a report of a threat to student safety or potential threat to student safety.

(c) "Personally identifiable information" means any information that would permit the identification of a person who reports information using the tip line, and is not limited to name, phone number, physical address, electronic mail address, race, gender, sexual orientation, disability designation, religious affiliation, national origin, ethnicity, school of attendance, city, county or any geographic identifier included in information conveyed through the tip line, or information identifying the machine or device used by the person in making a report using the tip line.

(d) "Service provider" means a person designated by the department to be notified when the tip line receives a report of a threat to student safety or potential threat to student safety. "Service provider" includes:

(A) A provider of behavioral health care or mental health care;

(B) A provider of school-based health care;

(C) A [*certificated*] **licensed** school counselor;

(D) A clinical social worker licensed under ORS 675.530; or

(E) A professional counselor or a marriage and family therapist licensed under ORS 675.615.

(e) "Student" means a student of:

(A) A school district, as defined in ORS 332.002;

(B) A community college, as defined in ORS 341.005;

(C) A private school that provides educational services to kindergarten through grade 12 students;

(D) A career school, as defined in ORS 345.010; or

(E) A public university listed under ORS 352.002.

(f) "Threat to student safety" includes, but is not limited to, a threat or instance of:

(A) Harassment, intimidation or bullying or cyberbullying;

(B) Suicide or self-harm; and

(C) Violence against others.

(g) "Tip line" means a statewide resource designed to accept information concerning threats to student safety or potential threats to student safety through methods of transmission including:

(A) Telephone calls;

(B) Text messages; and

(C) Electronically through the Internet.

(2) The Department of State Police shall establish a statewide tip line for students and other members of the public to use to confidentially report information concerning threats to student safety or potential threats to student safety.

(3) In consultation with state and local government behavioral health care providers, the department shall adopt rules necessary to establish and operate the tip line. The rules must include, but are not limited to:

(a) Provisions that protect the personally identifiable information of a person reporting information without compromising opportunities for follow-up contact from local law enforcement contacts or service providers to provide further information to or obtain further information from the person; and

(b) Written policies and procedures for:

(A) Logging reports received on the tip line;

(B) Verifying the authenticity and validity of a reported threat to student safety or potential threat to student safety;

(C) Relaying information concerning a threat to student safety or potential threat to student safety to local law enforcement contacts, service providers and appropriate education provider contacts;

(D) Connecting the tip line with other hotlines that are available for reports of violence or for crisis prevention; and

(E) Reporting for the purposes of tracking referrals to local law enforcement contacts and service providers resulting from information received on the tip line and tracking the outcome of any action taken in response to the referral.

(4) The contents of tips reported to the tip line may be disclosed only as allowed under ORS 192.345 (41), except that:

(a) Personally identifiable information may be disclosed only as provided in this section; and

(b) Personally identifiable information and other information reported through the tip line may be disclosed to the following persons for the purpose of follow-up contact to obtain or provide further information:

(A) Tip line staff;

(B) A school district, education service district, community college, private school that provides educational services to kindergarten through grade 12 students, career school or public university;

(C) A service provider; or

(D) Law enforcement.

(5) Any person authorized to receive tip line information under subsection (4) of this section must use the information only for the purpose of making follow-up contact to obtain or provide further information. Any further information obtained through follow-up contact may be disclosed only to the persons described in subsection (4) of this section.

(6) Persons authorized to receive tip line information under subsection (4) of this section may not disclose to the public the outcomes or actions taken as a result of tip line information unless the disclosure is required by a statute other than this section.

(7) Notwithstanding subsections (4) to (6) of this section, the department may release aggregated or summary information for reporting purposes and may provide information obtained through the tip line for the purpose of educating the public about the tip line, but may not disclose personally identifiable information under this subsection.

(8) The department may seek and accept gifts, grants and donations from any source for the purpose of carrying out *[its]* **the department's** duties under this section.

NOTE: Corrects terminology in (1)(d)(C); eliminates indefinite pronoun in (8).

SECTION 32. ORS 339.866 is amended to read:

339.866. (1) As used in this section:

(a) "Asthma" means a chronic inflammatory disorder of the airways that requires ongoing medical intervention.

(b) "Medication" means any prescription for bronchodilators or autoinjectable epinephrine prescribed by a student's Oregon licensed health care professional for asthma or severe allergies.

(c) "Severe allergy" means a life-threatening hypersensitivity to a specific substance such as food, pollen or dust.

(2) A school district board shall adopt policies and procedures that provide for self-administration of medication by kindergarten through grade 12 students with asthma or severe allergies:

(a) In school;

(b) At a school-sponsored activity;

(c) While under the supervision of school personnel;

(d) In before-school or after-school care programs on school-owned property; and

(e) In transit to or from school or school-sponsored activities.

(3) The policies and procedures shall:

(a) Require that an Oregon licensed health care professional prescribe the medication to be used by the student during school hours and instruct the student in the correct and responsible use of the medication;

(b) Require that an Oregon licensed health care professional, acting within the scope of the person's license, formulate a written treatment plan for managing the student's asthma or severe allergy and for the use of medication by the student during school hours;

(c) Require that the parent or guardian of the student submit to the school any written documentation required by the school, including any documents related to liability;

(d) Require that backup medication, if provided by a student's parent or guardian, be kept at the student's school in a location to which the student has immediate access in the event the student has an asthma or severe allergy emergency;

(e) Require the establishment of a process by which the parent or guardian of a student may request in writing that backup prescribed autoinjectable epinephrine be kept at a reasonably secure location in a student's classroom if:

(A) The location identified under paragraph (d) of this subsection is not the student's classroom; and

(B) A licensed health care professional verifies in writing that lack of immediate access to autoinjectable epinephrine may be life threatening to the student;

(f) Require that a school request from the student's parent or guardian that the parent or guardian provide medication for emergency use by the student; and

(g) Allow a school to revoke its permission for a student to self-administer medication if the student does not responsibly self-administer the medication or abuses the use of the medication.

(4) A school district board may impose other policies and procedures that the board determines are necessary to protect a student with asthma or a severe allergy.

(5) A school district board may not require school personnel who have not received appropriate training to assist a student with asthma or a severe allergy with self-administration of medication.

(6) This section does not apply to youth [*correctional*] **correction** facilities.

NOTE: Standardizes terminology in (6).

SECTION 33. ORS 342.120 is amended to read:

342.120. As used in this chapter, unless the context requires otherwise:

(1) "Administrator" includes but is not limited to all superintendents, assistant superintendents, principals and academic program directors in public schools or education service districts who have direct responsibility for supervision or evaluation of licensed teachers and who are compensated for their services from public funds.

(2) "Administrative license" means a license issued under ORS 342.125 (3)(f) or (g).

(3) "Approved educator preparation program" means a licensure program that is offered by an approved educator preparation provider and meets the standards of the Teacher Standards and Practices Commission.

(4) "Approved educator preparation provider" means an entity that meets the standards of the Teacher Standards and Practices Commission for preparation of licensed educators for preprimary programs through grade 12.

(5) "Instruction" includes preparation of curriculum, assessment and direction of learning in class, in small groups, in individual situations, online, in the library and in guidance and counseling, but does not include the provision of related services, as defined in ORS 343.035, to a child identified as a child with a disability pursuant to ORS 343.146 to 343.183 when provided in accordance with ORS 343.221.

(6) "Instructional assistant" means a classified school employee who does not require a license to teach, who is employed by a school district or education service district and whose assignment consists of and is limited to assisting a licensed teacher in accordance with rules established by the Teacher Standards and Practices Commission.

(7) "Teacher" includes all licensed employees in the public schools or employed by an education service district who have direct responsibility for instruction or coordination of educational pro-

grams and who are compensated for their services from public funds. "Teacher" does not include a school nurse as defined in ORS 342.455 or an instructional assistant.

(8) "Teaching license" means a license issued under ORS 342.125 or 342.144.

(9) "Underrepresented person" means:

(a) A person having origins in any of the black racial groups of Africa, but who is not Hispanic;

(b) A person of Hispanic culture or origin;

(c) A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands; or

(d) An American Indian or [*Alaskan*] **Alaska** Native having origins in any of the original peoples of North America.

NOTE: Updates terminology in (9)(d).

SECTION 34. ORS 342.433 is amended to read:

342.433. As used in ORS 342.433 to 342.449 and 350.100:

(1) "Diverse" means culturally or linguistically diverse characteristics of a person, including:

(a) Origins in any of the black racial groups of Africa but is not Hispanic;

(b) Hispanic culture or origin, regardless of race;

(c) Origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands;

(d) Origins in any of the original peoples of North America, including American Indians or [*Alaskan*] **Alaska** Natives; or

(e) A first language that is not English.

(2) "Educator" means a teacher or an administrator.

NOTE: Updates terminology in (1)(d).

SECTION 35. ORS 343.154 is amended to read:

343.154. (1) As used in this section:

(a) "Behavior intervention plan" means an individualized plan, including positive interventions, designed to:

(A) Assist a student to decrease inappropriate behavior; and

(B) Increase or teach an alternative appropriate behavior.

(b) "504 Plan" means an education plan developed for a student in accordance with section 504 of the Rehabilitation Act of [*1978*] **1973**, 29 U.S.C. 794.

(c) "Functional behavioral assessment" means an individualized assessment of a student that results in a hypothesis about the function of a student's behavior and, as appropriate, recommendations for a behavior intervention plan.

(d) "Serious bodily injury" has the meaning given that term in ORS 339.285.

(e) "Service provider" includes school personnel who:

(A) Are or will be providing services related to the implementation of an individualized education program or a 504 Plan to the student; and

(B) Do not hold a teaching license or an administrative license.

(2) A school district must conduct a functional behavioral assessment and develop, review or revise a behavior intervention plan within 45 school days of receiving parental consent to conduct the assessment for every student who has:

(a) An individualized education program or a 504 Plan; and

(b) Placed the student, other students or staff at imminent risk of serious bodily injury as a result of the student's behavior.

(3) When a behavior intervention plan is developed, reviewed or revised as provided by subsection (2) of this section, the school district must:

(a) Ensure that the behavior intervention plan is based on a functional behavioral assessment that was conducted by a qualified person;

(b) Ensure that the behavior intervention plan appropriately addresses the student's needs;

(c) Allow service providers involved in the incident when the student, other students or staff were at imminent risk of serious bodily injury to provide meaningful input into the development, review or revision;

(d) Inform the service providers about any portions of the behavior intervention plan that are relevant to the service providers and about any training opportunities for the service providers; and

(e) Ensure that the behavior intervention plan was correctly implemented before making any revisions.

NOTE: Corrects federal Act citation in (1)(b).

SECTION 36. ORS 344.590 is amended to read:

344.590. Any individual applying for or receiving vocational rehabilitation who is aggrieved because of the Department of Human Services' decision or delay in making a decision shall be entitled to appeal to the department, and opportunity for hearing as a contested case shall be accorded as provided in ORS chapter 183 [*and chapter 734, Oregon Laws 1971*].

NOTE: Deletes redundant reference.

SECTION 37. ORS 352.218 is amended to read:

352.218. (1) As used in this section, "minority" means:

(a) A person having origins in any of the black racial groups of Africa but who is not Hispanic;

(b) A person of Hispanic culture or origin;

(c) A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands; or

(d) An American Indian or [*Alaskan*] **Alaska** Native having origins in any of the original peoples of North America.

(2) Each public university listed in ORS 352.002 shall:

(a) Consider and maintain affirmative action plans and goals when reductions in faculty and staff are required as a result of:

(A) Reductions in revenue that necessitate discontinuance of [*its*] **the public university's** educational program at its anticipated level;

(B) Elimination of classes due to decreased student enrollment; or

(C) Reduction in courses due to administrative decisions.

(b) Interview one or more qualified minority applicants when hiring a head coach or athletic director, unless the public university was unable to identify a qualified minority applicant who was willing to interview for the position. It is an affirmative defense to a claim of a violation of this paragraph that the public university, in good faith, was unable to identify a qualified minority applicant who was willing to interview for the position.

NOTE: Updates terminology in (1)(d); clarifies indefinite pronoun in (2)(a)(A).

SECTION 38. ORS 358.605 is amended to read:

358.605. (1) The Legislative Assembly declares that the cultural heritage of Oregon is one of the state's most valuable and important assets[;], that the public has an interest in the preservation and management of all antiquities, historic and prehistoric ruins, sites, structures, objects, districts, buildings and similar places and things for their scientific and historic information and cultural and economic value[;], and that the neglect, desecration and destruction of cultural sites, structures, places and objects result in an irreplaceable loss to the public.

(2) The Legislative Assembly finds that the preservation and rehabilitation of historic resources are of prime importance as a prime attraction for all visitors[;], that they help attract new industry by being an influence in business relocation decisions[;] and that rehabilitation projects are labor intensive, with subsequent benefits of payroll[,] **and of** energy savings, and are important to the revitalization of deteriorating neighborhoods and downtowns.

(3) It is, therefore, the purpose of this state to identify, foster, encourage and develop the preservation, management and enhancement of structures, sites and objects of cultural significance within the state in a manner conforming with, but not limited by, the provisions of the National Historic Preservation Act of 1966 (P.L. 89-665; [*16 U.S.C. 470*] **54 U.S.C. 300101 et seq.**).

NOTE: Corrects punctuation in (1) and (2); improves syntax in (2); corrects federal Act citation in (3).

SECTION 39. ORS 413.011 is amended to read:

413.011. (1) The duties of the Oregon Health Policy Board are to:

(a) Be the policy-making and oversight body for the Oregon Health Authority established in ORS 413.032 and all of the authority's departmental divisions.

(b) Develop and submit a plan to the Legislative Assembly [by December 31, 2010,] to provide and fund access to affordable, quality health care for all Oregonians [by 2015].

(c) Develop a program to provide health insurance premium assistance to all low and moderate income individuals who are legal residents of Oregon.

(d) Publish health outcome and quality measure data collected by the Oregon Health Authority at aggregate levels that do not disclose information otherwise protected by law. The information published must report, for each coordinated care organization and each health benefit plan sold through the health insurance exchange or offered by the Oregon Educators Benefit Board or the Public Employees' Benefit Board:

(A) Quality measures;

(B) Costs;

(C) Health outcomes; and

(D) Other information that is necessary for members of the public to evaluate the value of health services delivered by each coordinated care organization and by each health benefit plan.

(e) Establish evidence-based clinical standards and practice guidelines that may be used by providers.

(f) Approve and monitor community-centered health initiatives described in ORS 413.032 (1)(h) that are consistent with public health goals, strategies, programs and performance standards adopted by the Oregon Health Policy Board to improve the health of all Oregonians, and [shall] to regularly report to the Legislative Assembly on the accomplishments and needed changes to the initiatives.

(g) Establish cost containment mechanisms to reduce health care costs.

(h) Ensure that Oregon's health care workforce is sufficient in numbers and training to meet the demand that will be created by the expansion in health coverage, health care system transformations, an increasingly diverse population and an aging workforce.

(i) Work with the Oregon congressional delegation to advance the adoption of changes in federal law or policy to promote Oregon's comprehensive health reform plan.

(j) Establish a health benefit package in accordance with ORS 741.340 to be used as the baseline for all health benefit plans offered through the health insurance exchange.

(k) Investigate and report annually to the Legislative Assembly on the feasibility and advisability of future changes to the health insurance market in Oregon, including but not limited to the following:

(A) A requirement for every resident to have health insurance coverage.

(B) A payroll tax as a means to encourage employers to continue providing health insurance to their employees.

(L) Meet cost-containment goals by structuring reimbursement rates to reward comprehensive management of diseases, quality outcomes and the efficient use of resources by promoting cost-effective procedures, services and programs including, without limitation, preventive health, dental and primary care services, web-based office visits, telephone consultations and telemedicine consultations.

(m) Oversee the expenditure of moneys from the [Health Care Workforce Strategic Fund] **Health Care Provider Incentive Fund** to support grants to primary care providers and rural health practitioners, to increase the number of primary care educators and to support efforts to create and develop career ladder opportunities.

(n) Work with the Public Health Benefit Purchasers Committee, administrators of the medical assistance program and the Department of Corrections to identify uniform contracting standards for

health benefit plans that achieve maximum quality and cost outcomes and align the contracting standards for all state programs to the greatest extent practicable.

(o) Work with the Health Information Technology Oversight Council to foster health information technology systems and practices that promote the Oregon Integrated and Coordinated Health Care Delivery System established by ORS 414.570 and align health information technology systems and practices across this state.

(2) The Oregon Health Policy Board is authorized to:

(a) Subject to the approval of the Governor, organize and reorganize the authority as the board considers necessary to properly conduct the work of the authority.

(b) Submit directly to the Legislative Counsel, no later than October 1 of each even-numbered year, requests for measures necessary to provide statutory authorization to carry out any of the board's duties or to implement any of the board's recommendations. The measures may be filed prior to the beginning of the legislative session in accordance with the rules of the House of Representatives and the Senate.

(3) If the board or the authority is unable to perform, in whole or in part, any of the duties described in ORS 413.006 to 413.042 and 741.340 without federal approval, the authority is authorized to request, in accordance with ORS 413.072, waivers or other approval necessary to perform those duties. The authority shall implement any portions of those duties not requiring legislative authority or federal approval, to the extent practicable.

(4) The enumeration of duties, functions and powers in this section is not intended to be exclusive nor to limit the duties, functions and powers imposed on the board by ORS 413.006 to 413.042 and 741.340 and by other statutes.

(5) The board shall consult with the Department of Consumer and Business Services in completing the tasks set forth in subsection (1)(j) and (k)(A) of this section.

NOTE: Removes temporary provisions in (1)(b); corrects read-in in (1)(f); replaces reference in (1)(m) to repealed fund with reference to fund that replaced repealed fund (see chapter 829, Oregon Laws 2015).

SECTION 40. ORS 414.428 is amended to read:

414.428. (1) An individual who is eligible for or receiving medical assistance, as defined in ORS 414.025, pursuant to a demonstration project under section 1115 of the Social Security Act and who is an American Indian and [*Alaskan*] **Alaska** Native beneficiary shall receive the same package of health services as individuals described in ORS 414.706 (1), (2) and (3) if:

(a) The Oregon Health Authority receives 100 percent federal medical assistance percentage for payments made by the authority for the package of health services provided; or

(b) The authority receives funding from the Indian tribes for which federal financial participation is available.

(2) As used in this section, "American Indian and [*Alaskan*] **Alaska** Native beneficiary" has the meaning given that term in ORS 414.631.

NOTE: Updates terminology in (1) and (2).

SECTION 41. ORS 414.631 is amended to read:

414.631. (1) Except as provided in subsections (2), (3), (4) and (5) of this section and ORS 414.632 (2), a person who is eligible for or receiving health services must be enrolled in a coordinated care organization to receive the health services for which the person is eligible. For purposes of this subsection, Medicaid-funded long term care services do not constitute health services.

(2) Subsections (1) and (4) of this section do not apply to:

(a) A person who is a noncitizen and who is eligible only for labor and delivery services and emergency treatment services;

(b) A person who is an American Indian and [*Alaskan*] **Alaska** Native beneficiary;

(c) An individual described in ORS 414.632 (2) who is dually eligible for Medicare and Medicaid and enrolled in a program of all-inclusive care for the elderly; and

(d) A person whom the Oregon Health Authority may by rule exempt from the mandatory enrollment requirement of subsection (1) of this section, including but not limited to:

- (A) A person who is also eligible for Medicare;
- (B) A woman in her third trimester of pregnancy at the time of enrollment;
- (C) A person under 19 years of age who has been placed in adoptive or foster care out of state;
- (D) A person under 18 years of age who is medically fragile and who has special health care needs;

(E) A person receiving services under the Medically Involved Home-Care Program created by ORS 417.345 (1); and

- (F) A person with major medical coverage.

(3) Subsection (1) of this section does not apply to a person who resides in an area that is not served by a coordinated care organization or where the organization's provider network is inadequate.

(4) In any area that is not served by a coordinated care organization but is served by a prepaid managed care health services organization, a person must enroll with the prepaid managed care health services organization to receive any of the health services offered by the prepaid managed care health services organization.

(5) As used in this section, "American Indian and [Alaskan] Alaska Native beneficiary" means:

- (a) A member of a federally recognized Indian tribe;
- (b) An individual who resides in an urban center and:

(A) Is a member of a tribe, band or other organized group of Indians, including those tribes, bands or groups whose recognition was terminated since 1940 and those recognized now or in the future by the state in which the member resides, or who is a descendant in the first or second degree of such a member;

(B) Is an Eskimo or Aleut or other [Alaskan] Alaska Native; or

(C) Is determined to be an Indian under regulations promulgated by the United States Secretary of the Interior;

(c) A person who is considered by the United States Secretary of the Interior to be an Indian for any purpose; or

(d) An individual who is considered by the United States Secretary of Health and Human Services to be an Indian for purposes of eligibility for Indian health care services, including as a California Indian, Eskimo, Aleut or other [Alaskan] Alaska Native.

NOTE: Updates terminology in (2)(b), (5) lead-in, (5)(b)(B) and (d).

SECTION 42. ORS 417.859 is amended to read:

417.859. (1) As used in this section, "eligible youth" means a person who:

(a) Is at least 14 years of age but younger than 21 years of age at the beginning of the school year; and

(b)(A) Is a school dropout, as defined in ORS 339.505;

(B) Is not exempt from attending public full-time schools under ORS 339.030; or

(C) Is recommended to participate in a youth reengagement program by the Department of Human Services, a juvenile court, the Oregon Youth Authority or any other entity identified by the Youth Development Council by rule.

(2) The Youth Development Division shall develop and administer a statewide youth reengagement system to provide appropriate educational opportunities and access to services for eligible youths.

(3) Under the statewide youth reengagement system, a school district or other entity identified by the Youth Development Council by rule may choose to provide a youth reengagement program. A youth reengagement program must:

(a) Be offered in collaboration with the Youth Development Division; and

(b) Include a partnership with an education service district, a community college district, a federally recognized Indian tribe, a community-based organization or any other entity identified by the Youth Development Council by rule.

(4) A youth reengagement program must offer, at a minimum, the following:

(a) Academic instruction that enables an eligible youth to receive credit that can be:

(A) Applied toward a high school diploma, a modified diploma or an extended diploma; or
(B) Used to improve college or career readiness, including courses that assist the eligible youth in preparing for an approved high school equivalency test such as the General Educational Development (GED) test; or

(b) Services for monitoring and supporting eligible youths, including:

(A) Academic counseling, career coaching and workforce readiness services; or

(B) Assistance with accessing services and resources that support at-risk youth and reduce barriers to educational success.

(5) If a school district or other entity chooses to provide a youth reengagement program, the school district or other entity may enter into an agreement to provide academic instruction or services as described in subsection (4) of this section. The agreement:

(a) May be with an education service district, a community college district or another public entity or with a community-based organization; and

(b) Must comply with any other requirements prescribed by the State Board of Education or the Youth Development Council by rule.

(6)(a) The State Board of Education, in collaboration with the Youth Development Council, shall establish by rule criteria for a school district or other entity to receive funding for eligible youths participating in a youth reengagement program. Funding may be in the form of grants.

(b) The criteria to receive funding may prescribe:

(A) Enrollment and attendance standards for eligible youths.

(B) Performance measures that establish targets that must be met for purposes of accountability. The performance measure targets shall be based on standards adopted by the Youth Development Council and may take into account the specific purpose of the program offered by the school district or other entity, the population served by the program and any other factors identified by the council.

(c) The criteria to receive funding must require a school district or other entity to provide to the Youth Development Division information that, at a minimum, describes:

(A) How the school district or other entity will identify, refer and enroll eligible youths;

(B) How academic instruction and services will be provided through the youth reengagement program and what academic instruction and services will be provided;

(C) How student records will be maintained and how data will be collected and reported;

(D) How any applicable assessments under ORS 329.485 or 329.488 will be administered;

(E) How the school district or other entity will provide special education and related services for eligible youths with disabilities who have an individualized education program or will provide necessary accommodations and plans for eligible youths who qualify under section 504 of the Rehabilitation Act of [1978] **1973** (29 U.S.C. 794);

(F) How the school district or other entity will ensure that eligible youths receive appropriate in-person guidance or support; and

(G) How the school district or other entity will record and report performance measures for purposes of accountability, including longitudinal monitoring of student progress and post-secondary education and employment readiness.

(7) The Department of Education and Youth Development Division shall provide technical assistance to school districts and other eligible entities choosing to provide youth reengagement programs.

(8)(a) The Youth Development Council shall coordinate with the State Board of Education to adopt rules under this section.

(b) When adopting rules under this section, the board and the council shall consult with post-secondary institutions of education and community-based organizations that have previously offered youth reengagement programs, providers of online courses and programs and education service districts.

(9) Nothing in this section affects the authority of a school district or other entity to directly offer youth reengagement programs or other educational services for eligible youths.

NOTE: Corrects name of federal Act in (6)(c)(E).

SECTION 43. ORS 418.319 is added to and made a part of ORS chapter 418.

NOTE: Adds statute to appropriate chapter.

SECTION 44. ORS 419B.005 is amended to read:

419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

(1)(a) "Abuse" means:

(A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child [which] **that** has been caused by other than accidental means, including any injury [which] **that** appears to be at variance with the explanation given of the injury.

(B) Any mental injury to a child, which shall include only observable and substantial impairment of the child's mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child.

(C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual penetration and incest, as those acts are described in ORS chapter 163.

(D) Sexual abuse, as described in ORS chapter 163.

(E) Sexual exploitation, including but not limited to:

(i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any other conduct [which] **that** allows, employs, authorizes, permits, induces or encourages a child to engage in the performing for people to observe or the photographing, filming, tape recording or other exhibition [which] **that**, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not including any conduct [which] **that** is part of any investigation conducted pursuant to ORS 419B.020 or [which] **that** is designed to serve educational or other legitimate purposes; and

(ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution as described in ORS 167.007 or a commercial sex act as defined in ORS 163.266, to purchase sex with a minor as described in ORS 163.413 or to engage in commercial sexual solicitation as described in ORS 167.008.

(F) Negligent treatment or maltreatment of a child, including but not limited to the failure to provide adequate food, clothing, shelter or medical care that is likely to endanger the health or welfare of the child.

(G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm to the child's health or welfare.

(H) Buying or selling a person under 18 years of age as described in ORS 163.537.

(I) Permitting a person under 18 years of age to enter or remain in or upon premises where methamphetamines are being manufactured.

(J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, or to the unlawful manufacturing of a cannabinoid extract, as defined in ORS 475B.015, that subjects a child to a substantial risk of harm to the child's health or safety.

(b) "Abuse" does not include reasonable discipline unless the discipline results in one of the conditions described in paragraph (a) of this subsection.

(2) "Child" means an unmarried person who:

(a) Is under 18 years of age; or

(b) Is under 21 years of age and residing in or receiving care or services at a child-caring agency as that term is defined in ORS 418.205.

(3) "Higher education institution" means:

(a) A community college as defined in ORS 341.005;

(b) A public university listed in ORS 352.002;

(c) The Oregon Health and Science University; and

(d) A private institution of higher education located in Oregon.

(4)(a) "Investigation" means a detailed inquiry into or assessment of the safety of a child alleged to have experienced abuse.

(b) "Investigation" does not include screening activities conducted upon the receipt of a report.

- (5) “Law enforcement agency” means:
- (a) A city or municipal police department.
 - (b) A county sheriff’s office.
 - (c) The Oregon State Police.
 - (d) A police department established by a university under ORS 352.121 or 353.125.
 - (e) A county juvenile department.
- (6) “Public or private official” means:
- (a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician, including any intern or resident.
 - (b) Dentist.
 - (c) School employee, including an employee of a higher education institution.
 - (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse’s aide, home health aide or employee of an in-home health service.
 - (e) Employee of the Department of Human Services, Oregon Health Authority, Early Learning Division, Department of Education, Youth Development Division, Office of Child Care, the Oregon Youth Authority, a local health department, a community mental health program, a community developmental disabilities program, a county juvenile department, a child-caring agency as that term is defined in ORS 418.205 or an alcohol and drug treatment program.
 - (f) Peace officer.
 - (g) Psychologist.
 - (h) Member of the clergy.
 - (i) Regulated social worker.
 - (j) Optometrist.
 - (k) Chiropractor.
 - (L) Certified provider of foster care, or an employee thereof.
 - (m) Attorney.
 - (n) Licensed professional counselor.
 - (o) Licensed marriage and family therapist.
 - (p) Firefighter or emergency medical services provider.
 - (q) [A] Court appointed special advocate, as defined in ORS 419A.004.
 - (r) [A] Child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.
 - (s) Member of the Legislative Assembly.
 - (t) Physical, speech or occupational therapist.
 - (u) Audiologist.
 - (v) Speech-language pathologist.
 - (w) Employee of the Teacher Standards and Practices Commission directly involved in investigations or discipline by the commission.
 - (x) Pharmacist.
 - (y) [An] Operator of a preschool recorded program under ORS 329A.255.
 - (z) [An] Operator of a school-age recorded program under ORS 329A.257.
 - (aa) Employee of a private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056.
 - (bb) Employee of a public or private organization providing child-related services or activities:
 - (A) Including but not limited to youth groups or centers, scout groups or camps, summer or day camps, survival camps or groups, centers or camps that are operated under the guidance, supervision or auspices of religious, public or private educational systems or community service organizations; and
 - (B) Excluding community-based, nonprofit organizations whose primary purpose is to provide confidential, direct services to victims of domestic violence, sexual assault, stalking or human trafficking.

(cc) [A] Coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete, if compensated and if the athlete is a child.

(dd) Personal support worker, as defined in ORS 410.600.

(ee) Home care worker, as defined in ORS 410.600.

(ff) Animal control officer, as defined in ORS 609.500.

(gg) Member of a school district board or public charter school governing body.

(hh) [An] Individual who is paid by a public body, in accordance with ORS 430.215, to provide a service identified in an individualized [written] service plan of a child with a developmental disability.

NOTE: Updates word choice in (1)(a)(A) and (E)(i); conforms syntax in (6)(q), (r), (y), (z), (cc) and (hh); updates terminology in (6)(hh).

SECTION 45. ORS 421.442 is amended to read:

421.442. (1) The Department of Corrections may create accounts and subaccounts as reasonably required to discharge the functions and duties prescribed by section 41, Article I of the Oregon Constitution, including accounts and subaccounts for the deposit of income generated from prison work programs. Accounts and subaccounts created under this subsection shall be maintained separate and distinct from the General Fund. Moneys credited to the accounts and subaccounts are continuously appropriated to the department for the purpose of implementing, maintaining and developing prison work programs. Moneys in the department accounts or subaccounts may be transferred to the adult in custody injury component of the Insurance Fund for the payment of expenses therefrom authorized by law. Moneys in the accounts or subaccounts may be invested as provided in ORS 293.701 to 293.790 and as authorized by ORS 421.305. Earnings on the investment of moneys in the accounts or subaccounts shall be credited to the respective account or subaccount.

(2) Oregon Corrections Enterprises may create accounts and subaccounts as reasonably required to discharge the functions and duties prescribed by section 41, Article I of the Oregon Constitution, and ORS 192.355, 421.305, 421.312, 421.344 to 421.367, 421.412, 421.444 and 421.445 and this section, including accounts and subaccounts for the deposit of income generated from prison work programs. All moneys collected or received by Oregon Corrections Enterprises shall be deposited into an account or subaccounts established by Oregon Corrections Enterprises in a depository bank insured by the Federal Deposit Insurance Corporation or the National Credit Union [*Share Insurance Fund*] **Administration**. The administrator shall ensure that sufficient collateral secures any amount of funds on deposit that exceeds the limits of the coverage of the Federal Deposit Insurance Corporation or the National Credit Union [*Share Insurance Fund*] **Administration**. All moneys in the account or subaccounts are continuously appropriated to Oregon Corrections Enterprises for the purpose of implementing, maintaining and developing prison work programs. Moneys in the accounts or subaccounts may be invested as provided in ORS 293.701 to 293.790 and as authorized by ORS 421.305. Earnings on the investment of moneys in the accounts or subaccounts shall be credited to the respective account or subaccount.

(3) Moneys credited to or received by adult in custody work programs conducted by the department may not be commingled with moneys credited to or received by adult in custody work programs conducted by Oregon Corrections Enterprises.

(4) Moneys in the accounts or subaccounts are available for implementing, maintaining and developing prison work and on-the-job training programs, including, but not limited to:

(a) The purchase of all necessary machinery and equipment for establishing, equipping and enlarging prison industries;

(b) The purchase of raw materials, the payment of salaries and wages and all other expenses necessary and proper in the judgment of the Director of the Department of Corrections or the administrator of Oregon Corrections Enterprises in the conduct and operation of prison industries; and

(c) Department transfers to the adult in custody injury component of the Insurance Fund from the payment of expenses authorized by law.

(5) No part of the accounts or subaccounts may be expended for maintenance, repairs, construction or reconstruction, or general or special expenses of a Department of Corrections institution, other than for prison work and on-the-job training programs.

(6) The transfers referred to in subsections (1) and (4)(c) of this section may be authorized by the Legislative Assembly, or the Emergency Board if the Legislative Assembly is not in session, whenever it appears to the Legislative Assembly or the board, as the case may be, that there are insufficient moneys in the adult in custody injury component of the Insurance Fund for the payment of expenses authorized by law.

NOTE: Updates language in (2) to reflect insuring agency.

SECTION 46. ORS 421.455 is amended to read:

421.455. (1) The Director of the Department of Corrections shall establish at places in state forests recommended by the State Board of Forestry one or more forest work camps at which state adults in custody and local adults in custody may be employed. Only such state adults in custody as are determined by the Department of Corrections to require minimum security may be placed at a forest work camp, but the Department of Corrections [*shall*] **may** not place an adult in custody at a forest work camp if the department is aware that the adult in custody has ever been convicted[,] of:

- (a) Rape in the first degree, as described in ORS 163.375.
- (b) Rape in the second degree, as described in ORS 163.365.
- (c) Rape in the third degree, as described in ORS 163.355.
- (d) Sodomy in the first degree, as described in ORS 163.405.
- (e) Sodomy in the second degree, as described in ORS 163.395.
- (f) Sodomy in the third degree, as described in ORS 163.385.
- (g) Unlawful sexual penetration in the first degree, as described in ORS 163.411.
- (h) Unlawful sexual penetration in the second degree, as described in ORS 163.408.
- (i) Sexual abuse in the first degree, as described in ORS 163.427.
- (j) Sexual abuse in the second degree, as described in ORS 163.425.
- (k) Any crime in any other jurisdiction that would constitute a crime described in this subsection if presently committed in this state.
- (L) Any attempt to commit a crime described in this subsection.

(2) The State Board of Forestry may make contracts with any other state agency in order to effectuate the purposes of **this section and** ORS [*421.455,*] 421.465, 421.470 and 421.476.

NOTE: Updates word choice and removes extraneous comma in (1); corrects statutory reference in (2).

SECTION 47. ORS 430.210 is amended to read:

430.210. (1) While receiving services, every person shall have the right to:

(a) Choose from available services those [*which*] **that** are appropriate, consistent with the plan developed in accordance with paragraphs (b) and (c) of this subsection and provided in a setting and under conditions that are least restrictive to the person's liberty, that are least intrusive to the person and that provide for the greatest degree of independence.

(b) An individualized [*written*] service plan, services based upon that plan and periodic review and reassessment of service needs.

(c) Ongoing participation in planning of services in a manner appropriate to the person's capabilities, including the right to participate in the development and periodic revision of the plan described in paragraph (b) of this subsection, and the right to be provided with a reasonable explanation of all service considerations.

(d) Not receive services without informed voluntary written consent except in a medical emergency or as otherwise permitted by law.

(e) Not participate in experimentation without informed voluntary written consent.

(f) Receive medication only for the person's individual clinical needs.

(g) Not be involuntarily terminated or transferred from services without prior notice, notification of available sources of necessary continued services and exercise of a grievance procedure.

(h) A humane service environment that affords reasonable protection from harm, reasonable privacy and daily access to fresh air and the outdoors, except that such access may be limited when it would create significant risk of harm to the person or others.

(i) Be free from abuse or neglect and to report any incident of abuse without being subject to retaliation.

(j) Religious freedom.

(k) Not be required to perform labor, except personal housekeeping duties, without reasonable and lawful compensation.

(L) Visit with family members, friends, advocates and legal and medical professionals.

(m) Exercise all rights set forth in ORS 426.385 if the individual is committed to the Oregon Health Authority.

(n) Be informed at the start of services and periodically thereafter of the rights guaranteed by this section and the procedures for reporting abuse, and to have these rights and procedures, including the name, address and telephone number of the system described in ORS 192.517 (1), prominently posted in a location readily accessible to the person and made available to the person's guardian and any representative designated by the person.

(o) Assert grievances with respect to infringement of the rights described in this section, including the right to have such grievances considered in a fair, timely and impartial grievance procedure.

(p) Have access to and communicate privately with any public or private rights protection organization or rights advocate.

(q) Exercise all rights described in this section without any form of reprisal or punishment.

(2) The rights described in this section are in addition to, and do not limit, all other statutory and constitutional rights that are afforded all citizens including, but not limited to, the right to vote, marry, have or not have children, own and dispose of property, enter into contracts and execute documents.

(3) The rights described in this section may be asserted and exercised by the person, the person's guardian and any representative designated by the person.

(4) Nothing in this section may be construed to alter any legal rights and responsibilities between parent and child.

NOTE: Updates word choice in (1)(a); updates terminology in (1)(b).

SECTION 48. ORS 430.230 is amended to read:

430.230. As used in ORS 430.230 to 430.236:

(1) "Comprehensive community supports and services" includes:

(a) Community-based mental health or substance use disorder treatment programs;

(b) Community-based services necessary to restore a defendant's fitness to proceed, as described in ORS 161.370 [(2)(a)] (4);

(c) Evidence-based and tribal-based programs designed to reduce hospital and jail utilization by target populations; and

(d) Programs aimed at diverting individuals with nonperson criminal charges experiencing mental illness or substance use disorders from the criminal justice system.

(2) "County" includes a single county or a regional consortium of counties.

NOTE: Corrects subsection reference in (1)(b).

SECTION 49. ORS 430.735 is amended to read:

430.735. As used in ORS 430.735 to 430.765:

(1) "Abuse" means one or more of the following:

(a) Abandonment, including desertion or willful forsaking of an adult or the withdrawal or neglect of duties and obligations owed an adult by a caregiver or other person.

(b) Any physical injury to an adult caused by other than accidental means, or that appears to be at variance with the explanation given of the injury.

(c) Willful infliction of physical pain or injury upon an adult.

(d) Sexual abuse.

- (e) Neglect.
- (f) Verbal abuse of an adult.
- (g) Financial exploitation of an adult.
- (h) Involuntary seclusion of an adult for the convenience of the caregiver or to discipline the adult.
 - (i) A wrongful use of a physical or chemical restraint upon an adult, excluding an act of restraint prescribed by a physician licensed under ORS chapter 677, physician assistant licensed under ORS 677.505 to 677.525, naturopathic physician licensed under ORS chapter 685 or nurse practitioner licensed under ORS 678.375 to 678.390 and any treatment activities that are consistent with an approved treatment plan or in connection with a court order.
 - (j) An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425, 163.427, 163.465 or 163.467.
 - (k) Any death of an adult caused by other than accidental or natural means.
- (2) "Adult" means a person 18 years of age or older:
 - (a) With a developmental disability who is currently receiving services from a community program or facility or who was previously determined eligible for services as an adult by a community program or facility;
 - (b) With a severe and persistent mental illness who is receiving mental health treatment from a community program; or
 - (c) Who is receiving services for a substance use disorder or a mental illness in a facility or a state hospital.
- (3) "Adult protective services" means the necessary actions taken to prevent abuse or exploitation of an adult, to prevent self-destructive acts and to safeguard the adult's person, property and funds, including petitioning for a protective order as defined in ORS 125.005. Any actions taken to protect an adult shall be undertaken in a manner that is least intrusive to the adult and provides for the greatest degree of independence.
- (4) "Caregiver" means an individual, whether paid or unpaid, or a facility that has assumed responsibility for all or a portion of the care of an adult as a result of a contract or agreement.
- (5) "Community program" includes:
 - (a) A community mental health program or a community developmental disabilities program as established in ORS 430.610 to 430.695; or
 - (b) A provider that is paid directly or indirectly by the Oregon Health Authority to provide mental health treatment in the community.
- (6) "Facility" means a residential treatment home or facility, residential care facility, adult foster home, residential training home or facility or crisis respite facility.
- (7) "Financial exploitation" means:
 - (a) Wrongfully taking the assets, funds or property belonging to or intended for the use of an adult.
 - (b) Alarming an adult by conveying a threat to wrongfully take or appropriate money or property of the adult if the adult would reasonably believe that the threat conveyed would be carried out.
 - (c) Misappropriating, misusing or transferring without authorization any money from any account held jointly or singly by an adult.
 - (d) Failing to use the income or assets of an adult effectively for the support and maintenance of the adult.
- (8) "Intimidation" means compelling or deterring conduct by threat.
- (9) "Law enforcement agency" means:
 - (a) Any city or municipal police department;
 - (b) A police department established by a university under ORS 352.121 or 353.125;
 - (c) Any county sheriff's office;
 - (d) The Oregon State Police; or
 - (e) Any district attorney.

(10) "Neglect" means:

(a) Failure to provide the care, supervision or services necessary to maintain the physical and mental health of an adult that may result in physical harm or significant emotional harm to the adult;

(b) Failure of a caregiver to make a reasonable effort to protect an adult from abuse; or

(c) Withholding of services necessary to maintain the health and well-being of an adult that leads to physical harm of the adult.

(11) "Public or private official" means:

(a) Physician licensed under ORS chapter 677, physician assistant licensed under ORS 677.505 to 677.525, naturopathic physician, psychologist or chiropractor, including any intern or resident;

(b) Licensed practical nurse, registered nurse, nurse's aide, home health aide or employee of an in-home health service;

(c) Employee of the Department of Human Services or Oregon Health Authority, local health department, community mental health program or community developmental disabilities program or private agency contracting with a public body to provide any community mental health service;

(d) Peace officer;

(e) Member of the clergy;

(f) Regulated social worker;

(g) Physical, speech or occupational therapist;

(h) Information and referral, outreach or crisis worker;

(i) Attorney;

(j) Licensed professional counselor or licensed marriage and family therapist;

(k) Any public official;

(L) Firefighter or emergency medical services provider;

(m) Member of the Legislative Assembly;

(n) Personal support worker, as defined in ORS 410.600;

(o) Home care worker, as defined in ORS 410.600; or

(p) [An] Individual paid by the Department of Human Services to provide a service identified in an individualized [written] service plan of an adult with a developmental disability.

(12) "Services" includes but is not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene or any other service essential to the well-being of an adult.

(13)(a) "Sexual abuse" means:

(A) Sexual contact with a nonconsenting adult or with an adult considered incapable of consenting to a sexual act under ORS 163.315;

(B) Sexual harassment, sexual exploitation or inappropriate exposure to sexually explicit material or language;

(C) Any sexual contact between an employee of a facility or paid caregiver and an adult served by the facility or caregiver;

(D) Any sexual contact between an adult and a relative of the adult other than a spouse;

(E) Any sexual contact that is achieved through force, trickery, threat or coercion; or

(F) Any sexual contact between an individual receiving mental health or substance abuse treatment and the individual providing the mental health or substance abuse treatment.

(b) "Sexual abuse" does not mean consensual sexual contact between an adult and a paid caregiver who is the spouse of the adult.

(14) "Sexual contact" has the meaning given that term in ORS 163.305.

(15) "Verbal abuse" means to threaten significant physical or emotional harm to an adult through the use of:

(a) Derogatory or inappropriate names, insults, verbal assaults, profanity or ridicule; or

(b) Harassment, coercion, threats, intimidation, humiliation, mental cruelty or inappropriate sexual comments.

NOTE: Conforms syntax and updates terminology in (11)(p).

SECTION 50. ORS 430.743 is amended to read:

430.743. (1) When a report is required under ORS 430.765 [(1) and (2)], an oral report shall be made immediately by telephone or otherwise to the Department of Human Services, the designee of the department or a law enforcement agency within the county where the person making the report is at the time of contact. If known, the report shall include:

- (a) The name, age and present location of the allegedly abused adult;
- (b) The names and addresses of persons responsible for the adult's care;
- (c) The nature and extent of the alleged abuse, including any evidence of previous abuse;
- (d) Any information that led the person making the report to suspect that abuse has occurred plus any other information that the person believes might be helpful in establishing the cause of the abuse and the identity of the perpetrator; and
- (e) The date of the incident.

(2) When a report is received by the department's designee under this section, the designee shall immediately determine whether abuse occurred and if the reported victim has sustained any serious injury. If so, the designee shall immediately notify the department. If there is reason to believe a crime has been committed, the designee shall immediately notify the law enforcement agency having jurisdiction within the county where the report was made. If the designee is unable to gain access to the allegedly abused adult, the designee may contact the law enforcement agency for assistance and the agency shall provide assistance. When a report is received by a law enforcement agency, the agency shall immediately notify the law enforcement agency having jurisdiction if the receiving agency does not. The receiving agency shall also immediately notify the department in cases of serious injury or death.

(3) Upon receipt of a report of abuse under this section, the department or its designee shall notify:

- (a) The agency providing primary case management services to the adult; and
- (b) The guardian or case manager of the adult, unless the notification would undermine the integrity of the investigation because the guardian or case manager is suspected of committing abuse.

NOTE: Eliminates inappropriate subsection references in (1); improves punctuation in (3)(b).

SECTION 51. ORS 430.753 is amended to read:

430.753. (1) Anyone participating in good faith in making a report of abuse pursuant to ORS 430.743 and 430.765 [(1) and (2)] and who has reasonable grounds for making the report, shall have immunity from any criminal or civil liability that might otherwise be incurred or imposed with respect to the making or content of the report. The participant shall have the same immunity with respect to participating in any judicial proceeding resulting from the report.

(2) The identity of the person making the report shall be treated as confidential information and shall be disclosed only with the consent of that person, by judicial order or as otherwise permitted by ORS 430.763.

NOTE: Eliminates inappropriate subsection references in (1).

SECTION 52. ORS 430.757 is amended to read:

430.757. A proper record of all reports of abuse made under ORS 430.743 and 430.765 [(1) and (2)] shall be maintained by the Department of Human Services.

NOTE: Eliminates inappropriate subsection references.

SECTION 53. ORS 430.765 is amended to read:

430.765. (1) Any public or private official who has reasonable cause to believe that any adult with whom the official comes in contact has suffered abuse, or that any person with whom the official comes in contact has abused an adult, shall report or cause a report to be made in the manner required in ORS 430.743.

(2) Nothing contained in ORS 40.225 to 40.295 affects the duty to report imposed by [subsections (1) and (2)] **subsection (1)** of this section, except that a psychiatrist, psychologist, member of the clergy or attorney [shall] **may** not be required to report such information communicated by a person if the communication is privileged under ORS 40.225 to 40.295.

(3) An adult who in good faith is voluntarily under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall for this reason alone not be considered subjected to abuse under ORS 430.735 to 430.765.

NOTE: Eliminates inappropriate subsection reference and updates word choice in (2).

SECTION 54. ORS 441.020 is amended to read:

441.020. (1) Licenses for health care facilities, except long term care facilities as defined in ORS 442.015, must be obtained from the Oregon Health Authority.

(2) Licenses for long term care facilities must be obtained from the Department of Human Services.

(3) Applications shall be upon such forms and shall contain such information as the authority or the department may reasonably require, which may include affirmative evidence of ability to comply with such reasonable standards and rules as may lawfully be prescribed under ORS 441.025.

(4)(a) Each application submitted to the Oregon Health Authority must be accompanied by the license fee. If the license is denied, the fee shall be refunded to the applicant. If the license is issued, the fee shall be paid into the State Treasury to the credit of the Oregon Health Authority Fund for the purpose of carrying out the functions of the Oregon Health Authority under **and enforcing** ORS 441.015 to 441.087; or

(b) Each application submitted to the Department of Human Services must be accompanied by the application fee or the annual renewal fee, as applicable. If the license is denied, the fee shall be refunded to the applicant. If the license is issued, the fee shall be paid into the State Treasury to the credit of the Department of Human Services Account for the purpose of carrying out the functions of the Department of Human Services under **and enforcing** ORS 431A.050 to 431A.080 and 441.015 to 441.087.

(5) Except as otherwise provided in subsection (8) of this section, for hospitals with:

(a) Fewer than 26 beds, the annual license fee shall be \$1,250.

(b) Twenty-six beds or more but fewer than 50 beds, the annual license fee shall be \$1,850.

(c) Fifty or more beds but fewer than 100 beds, the annual license fee shall be \$3,800.

(d) One hundred beds or more but fewer than 200 beds, the annual license fee shall be \$6,525.

(e) Two hundred or more beds, but fewer than 500 beds, the annual license fee shall be \$8,500.

(f) Five hundred or more beds, the annual license fee shall be \$12,070.

(6) A hospital shall pay an annual fee of \$750 for each hospital satellite indorsed under *[its]* **the hospital's** license.

(7) The authority may charge a reduced hospital fee or hospital satellite fee if the authority determines that charging the standard fee constitutes a significant financial burden to the facility.

(8) For long term care facilities with:

(a) One to 15 beds, the application fee shall be \$2,000 and the annual renewal fee shall be \$1,000.

(b) Sixteen to 49 beds, the application fee shall be \$3,000 and the annual renewal fee shall be \$1,500.

(c) Fifty to 99 beds, the application fee shall be \$4,000 and the annual renewal fee shall be \$2,000.

(d) One hundred to 150 beds, the application fee shall be \$5,000 and the annual renewal fee shall be \$2,500.

(e) More than 150 beds, the application fee shall be \$6,000 and the annual renewal fee shall be \$3,000.

(9) For ambulatory surgical centers, the annual license fee shall be:

(a) \$1,750 for certified and high complexity noncertified ambulatory surgical centers with more than two procedure rooms.

(b) \$1,250 for certified and high complexity noncertified ambulatory surgical centers with no more than two procedure rooms.

(c) \$1,000 for moderate complexity noncertified ambulatory surgical centers.

(10) For birthing centers, the annual license fee shall be \$750.

(11) For outpatient renal dialysis facilities, the annual license fee shall be \$2,000.

(12) The authority shall prescribe by rule the fee for licensing an extended stay center, not to exceed:

(a) An application fee of \$25,000; and

(b) An annual renewal fee of \$5,000.

(13) During the time the licenses remain in force, holders are not required to pay inspection fees to any county, city or other municipality.

(14) Any health care facility license may be indorsed to permit operation at more than one location. If so, the applicable license fee shall be the sum of the license fees that would be applicable if each location were separately licensed. The authority may include hospital satellites on a hospital's license in accordance with rules adopted by the authority.

(15) Licenses for health maintenance organizations shall be obtained from the Director of the Department of Consumer and Business Services pursuant to ORS 731.072.

(16) Notwithstanding subsection (4) of this section, all moneys received for approved applications pursuant to subsection (8) of this section shall be deposited in the Quality Care Fund established in ORS 443.001.

(17) As used in this section:

(a) "Hospital satellite" has the meaning prescribed by the authority by rule.

(b) "Procedure room" means a room where surgery or invasive procedures are performed.

NOTE: Clarifies that licensing agency both administers and enforces provisions in (4)(a) and (b); eliminates indefinite pronoun in (6).

NOTE: Section 55 was deleted by amendment. Subsequent sections were not renumbered.

SECTION 56. ORS 442.445 is added to and made a part of ORS chapter 442.

NOTE: Adds statute to appropriate chapter.

SECTION 57. ORS 442.485 is amended to read:

442.485. The responsibilities of the Office of Rural Health shall include but not be limited to:

(1) Coordinating statewide efforts for providing health care in rural areas.

(2) Accepting and processing applications from communities interested in developing health care delivery systems. [*Application forms shall be developed by the agency.*]

(3) [*Through the agency,*] Applying for grants and accepting gifts and grants from other governmental or private sources for the research and development of rural health care programs and facilities.

(4) Serving as a clearinghouse for information on health care delivery systems in rural areas.

(5) Helping local health care delivery systems develop ongoing funding sources.

(6) Developing enabling legislation to facilitate further development of rural health care delivery systems.

(7) Providing information to the Department of Revenue about all certifications for tax credits allowed under ORS 315.613, 315.616, 315.619 and 315.622, if required by ORS 315.058.

(8) The Office of Rural Health may order the suspension or revocation of a certificate or a portion of a certificate issued under ORS 315.613 or 315.622, as provided in ORS 315.061.

NOTE: Deletes obsolete references to agency in (2) and (3).

SECTION 58. ORS 442.500 is amended to read:

442.500. (1) The Office of Rural Health shall provide technical assistance to rural communities interested in developing health care delivery systems.

(2) Communities shall make application for this technical assistance on forms developed by the office for this purpose.

[(3) *The office shall make the final decision concerning which communities receive the money and whether a loan is made or a grant is given.*]

[(4)] (3) The office may make grants or loans to rural communities for the purpose of establishing or maintaining medical care services.

(4) The office shall make the final decision concerning which communities receive the moneys and whether a loan is made or a grant is given.

(5) The office shall provide technical assistance and coordination of rural health activities through staff services, which include monitoring, evaluation, community needs analysis, information gathering and disseminating, guidance, linkages and research.

NOTE: Reorders subsections for clarity; conforms word choice to legislative style in (4); improves punctuation in (5).

SECTION 59. ORS 443.008 is amended to read:

443.008. (1) As used in this section:

(a) "Direct care services" means services provided to clients of the Department of Human Services or the Oregon Health Authority by:

(A) An adult foster home, as defined in ORS 443.705;

(B) A home care worker, as defined in ORS 410.600;

(C) A residential facility, as defined in ORS 443.400; or

(D) A [*provider of specialized supports or support services for adults*] **service provider** as defined in ORS 427.101.

(b) "Fitness determination" means the evaluation of whether a subject individual or other individual providing direct care services is fit to hold a position, provide direct care services or be granted a license, certification, registration or permit to provide direct care services.

(c) "Qualified entity" has the meaning given that term in ORS 181A.190.

(d) "Subject individual" means a person who is:

(A) Employed by or who seeks to be employed by the authority or the department;

(B) A volunteer or who seeks to be a volunteer to provide care on behalf of the authority or the department; or

(C) Providing care or who seeks to provide care on behalf of the authority or the department.

(2) The department and the authority shall prescribe by rule the criteria to be considered in making fitness determination findings of abuse that are substantiated. The criteria must include the types of substantiated abuse for which a subject individual may be found to be unfit and conditions, if any, for the reinstatement of a subject individual who is found to be unfit.

(3) A subject individual who is found to be unfit is entitled to challenge the fitness determination in a contested case hearing conducted in accordance with ORS chapter 183. The subject individual may not challenge a finding of substantiated abuse or criminal conviction that was the basis for the fitness determination but may contest the weight accorded the evidence, mitigating factors or other aspects of the evaluation. The individual may be represented by an attorney or other person or, if the individual is a member of a bargaining unit, by the certified or recognized exclusive representative for the bargaining unit.

(4) This section applies to fitness determinations for providers of direct care services conducted under ORS 181A.195 (10) or 443.004 (7).

NOTE: Adjusts reference to defined term in (1)(a)(D).

SECTION 60. ORS 443.430 is amended to read:

443.430. (1) A license under ORS 443.415 is not transferable or applicable to any location, residential facility or management other than that indicated on the application for licensure.

(2) Except as provided in subsection (3) of this section:

(a) All moneys collected under ORS 443.400 to 443.455 for the purpose of licensing a residential care facility, residential training facility or residential training home shall be deposited in a special account in the General Fund and are continuously appropriated for payment of expenses incurred by the Department of Human Services in administering **and enforcing** ORS 443.400 to 443.455.

(b) All moneys collected under ORS 443.400 to 443.455 for the purpose of licensing a residential treatment facility or residential treatment home shall be deposited in a special account in the General Fund and are continuously appropriated for payment of expenses incurred by the Oregon Health Authority in administering **and enforcing** ORS 443.400 to 443.455.

(3) All moneys collected from a residential care facility under ORS 443.415, 443.425 or 443.455 shall be deposited in the Quality Care Fund established in ORS 443.001.

NOTE: Clarifies that licensing agency both administers and enforces provisions in (2)(a) and (b).

SECTION 61. ORS 445.010, 445.020, 445.030, 445.050, 445.060, 445.070, 445.090, 445.110, 445.120, 445.130, 445.140, 445.150, 445.155, 445.180 and 445.185 are repealed.

NOTE: Repeals obsolete provisions.

SECTION 62. ORS 458.610 is amended to read:

458.610. For purposes of ORS 458.600 to 458.665:

(1) "Area median income" means the median family income for the area, subject to adjustment for areas with unusually high or low incomes or housing costs, all as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development.

(2) "Council" means the Oregon Housing Stability Council established in ORS 456.567.

(3) "Department" means the Housing and Community Services Department established in ORS 456.555.

(4) "Low income" means income that is more than 50 percent and not more than 80 percent of the area median income.

(5) "Minority" means an individual:

(a) Who has origins in one of the black racial groups of Africa but who is not Hispanic;

(b) Who is of Hispanic culture or origin;

(c) Who has origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands; or

(d) Who is an American Indian or [*Alaskan*] **Alaska** Native having origins in one of the original peoples of North America.

(6) "Moderate income" means income that is more than 80 percent and not more than 120 percent of the area median income.

(7) "Organization" means a:

(a) Nonprofit corporation established under ORS chapter 65;

(b) Housing authority established under ORS 456.055 to 456.235; or

(c) Local government as defined in ORS 197.015.

(8) "Persons with disabilities" means persons with handicaps described in 42 U.S.C. 3602(h).

(9) "Very low income" means income that is 50 percent or less of the area median income.

(10) "Veteran" has the meaning given that term in ORS 408.225.

NOTE: Updates terminology in (5)(d).

SECTION 63. ORS 471.410 is amended to read:

471.410. (1) A person may not sell, give or otherwise make available any alcoholic liquor to any person who is visibly intoxicated.

(2) No one other than the person's parent or guardian may sell, give or otherwise make available any alcoholic liquor to a person under the age of 21 years. A parent or guardian may give or otherwise make alcoholic liquor available to a person under the age of 21 years only if the person is in a private residence and is accompanied by the parent or guardian. A person violates this subsection who sells, gives or otherwise makes available alcoholic liquor to a person with the knowledge that the person to whom the liquor is made available will violate this subsection.

(3)(a) A person who exercises control over private real property may not knowingly allow any other person under the age of 21 years who is not a child or minor ward of the person to consume alcoholic liquor on the property, or allow any other person under the age of 21 years who is not a child or minor ward of the person to remain on the property if the person under the age of 21 years consumes alcoholic liquor on the property.

(b) This subsection:

(A) Applies only to a person who is present and in control of the location at the time the consumption occurs;

(B) Does not apply to the owner of rental property, or the agent of an owner of rental property, unless the consumption occurs in the individual unit in which the owner or agent resides; and

(C) Does not apply to a person who exercises control over a private residence if the liquor consumed by the person under the age of 21 years is supplied only by an accompanying parent or guardian.

(4) This section does not apply to sacramental wine given or provided as part of a religious rite or service.

(5) Except as provided in subsections (6) and (7) of this section, a person who violates subsection (1) or (2) of this section commits a Class A misdemeanor. Upon violation of subsection (2) of this section, the court shall impose at least a mandatory minimum sentence as follows:

(a) Upon a first conviction, a fine of at least \$500.

(b) Upon a second conviction, a fine of at least \$1,000.

(c) Upon a third or subsequent conviction, a fine of at least \$1,500 and not less than 30 days of imprisonment.

(6)(a) A person who violates subsection (2) of this section is subject to the provisions of this subsection if the person does not act knowingly or intentionally and:

(A) Is licensed or appointed under this chapter; or

(B) Is an employee of a person licensed or appointed under this chapter and holds a valid service permit or has attended a program approved by the Oregon Liquor Control Commission that provides training to avoid violations of this section.

(b) For a person described in paragraph (a) of this subsection:

(A) A first conviction is a Class A violation.

(B) A second conviction is a specific fine violation, and the presumptive fine for the violation is \$860.

(C) A third conviction is a Class A misdemeanor. The court shall impose a mandatory fine of not less than \$1,000.

(D) A fourth or subsequent conviction is a Class A misdemeanor. The court shall impose a mandatory fine of not less than \$1,000 and a mandatory sentence of not less than 30 days of imprisonment.

(7) For an employee of an off-premises sales licensee who violates subsection (2) of this section while operating a checkout device and does not act knowingly or intentionally, a first conviction is a Class A violation.

(8) The court may waive an amount that is at least \$200 but not more than one-third of the fine imposed under subsection (5) of this section, if the violator performs at least 30 hours of community service.

(9) Except as provided in subsection (8) of this section, the court may not waive or suspend imposition or execution of the mandatory minimum sentence required by subsection (5) or (6) of this section. In addition to the mandatory sentence, the court may require the violator to make restitution for any damages to property where the alcoholic liquor was illegally consumed or may require participation in volunteer service to a community service agency.

(10)(a) Except as provided in paragraph (b) of this subsection, a person who violates subsection (3) of this section commits a Class A violation.

(b) A second or subsequent violation of subsection (3) of this section is a specific fine violation, and the presumptive fine for the violation is \$1,000.

(11) Nothing in this section prohibits any licensee under this chapter from allowing a person who is visibly intoxicated [*from remaining*] **to remain** on the licensed premises so long as the person is not sold or served any alcoholic liquor.

NOTE: Improves syntax in (11).

SECTION 64. ORS 498.164 is amended to read:

498.164. (1) Except as provided in subsections (2) and (3) of this section, a person may not use bait to attract or take black bears or use one or more dogs to hunt or pursue black bears or cougars.

(2) Nothing in subsection (1) of this section prohibits the use of bait or one or more dogs by employees or agents of county, state or federal agencies while acting in their official capacities.

(3) Nothing in subsection (1) of this section prohibits the use of bait or dogs by persons for the taking of black bears or cougars in accordance with the provisions of ORS 498.012 relating to taking wildlife that is causing damage.

(4) Any person who violates subsection (1) of this section commits a Class A misdemeanor and, upon conviction, shall in addition to appropriate criminal penalties have [*his or her*] **the person's** privilege to apply for any hunting license suspended for a period of five years for a first offense and permanently suspended for any subsequent offense.

(5) For the purposes of this section, "bait" means any material placed for the purpose of attracting or attempting to attract bears.

NOTE: Eliminates use of gendered pronouns in (4).

SECTION 65. ORS 539.010 is amended to read:

539.010. (1) Actual application of water to beneficial use prior to February 24, 1909, by or under authority of any riparian proprietor or the predecessors in interest of the riparian proprietor, shall be deemed to create in the riparian proprietor a vested right to the extent of the actual application to beneficial use[;], provided[,] such use has not been abandoned for a continuous period of two years.

(2) Where any riparian proprietor, or any person under authority of any riparian proprietor or the predecessor in interest of the riparian proprietor, was, on February 24, 1909, engaged in good faith in the construction of works for the application of water to a beneficial use, the right to take and use such water shall be deemed vested in the riparian proprietor[;], provided[,] that the works were completed and the water devoted to a beneficial use within a reasonable time after February 24, 1909. The Water Resources Director, in the manner provided in subsection (5) of this section, may determine the time within which the water shall be devoted to a beneficial use. The right to water shall be limited to the quantity actually applied to a beneficial use within the time so fixed by the director.

(3) Nothing contained in the Water Rights Act [*as*], **as** defined in ORS 537.010[], shall affect relative priorities to the use of water among parties to any decree of the courts rendered in causes determined or pending prior to February 24, 1909.

(4) The right of any person to take and use water [*shall*] **may** not be impaired or affected by any provisions of the Water Rights Act [*as*], **as** defined in ORS 537.010[], where appropriations were initiated prior to February 24, 1909, and such appropriators, their heirs, successors or assigns did, in good faith and in compliance with the laws then existing, commence the construction of works for the application of the water so appropriated to a beneficial use, and thereafter prosecuted such work diligently and continuously to completion. However, all such rights shall be adjudicated in the manner provided in this chapter.

(5) The director shall, for good cause shown upon the application of any appropriator or user of water under an appropriation of water made prior to February 24, 1909, or in the cases mentioned in subsections (2) and (4) of this section, where actual construction work was commenced prior to that time or within the time provided in law then existing, prescribe the time within which the full amount of the water appropriated shall be applied to a beneficial use. In determining said time the director shall grant a reasonable time after the construction of the works or canal or ditch used for the diversion of the water, and in doing so, the director shall take into consideration the cost of the appropriation and application of the water to a beneficial purpose, the good faith of the appropriator, the market for water or power to be supplied, the present demands therefor[,] and the income or use that may be required to provide fair and reasonable returns upon the investment. For good cause shown the director may extend the time.

(6) Where appropriations of water attempted before February 24, 1909, were undertaken in good faith, and the work of construction or improvement thereunder was in good faith commenced and diligently prosecuted, such appropriations [*shall*] **may** not be set aside or voided in proceedings under this chapter because of any irregularity or insufficiency of the notice by law, or in the manner of posting, recording or publication thereof.

(7) In any proceeding to adjudicate water rights under this chapter, the Water Resources Department may adjudicate federal reserved rights for the water necessary to fulfill the primary purpose of the reservation or any federal water right not acquired under ORS chapter 537 or ORS 540.510 to 540.530.

(8) All rights granted or declared by the Water Rights Act [(], as defined in ORS 537.010)], shall be adjudicated and determined in the manner and by the tribunals provided therein. The Water Rights Act [shall] **may** not be held to bestow upon any person any riparian rights where no such rights existed prior to February 24, 1909.

NOTE: Corrects punctuation in (1), (2), (3), (4), (5) and (8); updates word choice in (4), (6) and (8).

SECTION 66. ORS 553.270 is amended to read:

553.270. The right to condemn property, given pursuant to ORS 553.090 (4) shall include property already devoted to public use, including state and county property, which is less necessary than the use for which it is required by the district. In the acquisition of property or rights by condemnation, the board shall proceed in the name of the district under the provisions of the laws of Oregon. However, the right of condemnation may not be exercised against the lands or water rights of an irrigation district organized under ORS chapter 545, a drainage district organized under ORS chapter 547, [a flood control district organized under ORS chapter 550,] a diking district organized under ORS chapter 551, a water improvement district organized under ORS chapter 552, a corporation for the use and control of water organized under ORS chapter 554 or a domestic water supply district organized under ORS chapter 264, or against property of the State of Oregon used for highway purposes.

NOTE: Deletes obsolete reference.

SECTION 67. ORS 561.144 is amended to read:

561.144. (1) The State Treasurer shall establish a Department of Agriculture Service Fund, which shall be a trust fund separate and distinct from the General Fund. The State Department of Agriculture shall deposit all license and service fees paid to it under the provisions of the statutes identified in subsection (3) of this section in the Department of Agriculture Service Fund. The State Treasurer is the custodian of this trust fund, which shall be deposited by the treasurer in such depositories as are authorized to receive deposits of the General Fund, and which may be invested by the treasurer in the same manner as authorized by ORS 293.701 to 293.857.

(2) Interest received on deposits credited to the Department of Agriculture Service Fund shall accrue to and become a part of the Department of Agriculture Service Fund.

(3) The license and service fees subject to this section are those described in ORS 561.400, 561.740, 570.710, 571.057, 571.063, 571.145, [571.281,] 586.270, 596.030, 596.100, 596.311, 599.235, 599.269, 599.406, 599.610, 601.040, 602.090, 603.025, 603.075, 616.706, 618.115, 618.136, 619.031, 621.072, 621.166, 621.266, 621.297, 621.335, 621.730, 622.080, 625.180, 628.240, 632.211, 632.600, 632.720, 632.730, 632.741, 632.940, 632.945, 633.015, 633.029, 633.318, 633.362, 633.462, 633.465, 633.680, 633.700, 633.720, 634.016, 634.116, 634.122, 634.126, 634.132, 634.136, 634.212 and 635.030.

NOTE: Removes outdated provision in (3) (see ORS 571.281 (8)).

SECTION 68. ORS 569.600 is amended to read:

569.600. (1) The State Weed Board is created in the State Department of Agriculture. The board shall consist of seven members appointed by the Director of Agriculture as follows:

(a) At least two members shall be residents of that portion of the state east of the summit of the Cascade Mountains.

(b) At least two members shall be residents of that portion of the state west of the summit of the Cascade Mountains.

(c) Two members shall be selected from among those individuals recommended by the Association of Oregon Counties.

(d) The director or a designee of the director shall serve as a member.

(2) The term of each member is four years, but a member serves at the pleasure of the director. Before the expiration of the term of a member, the director shall appoint a successor. A member is

eligible for reappointment. If there is a vacancy for any cause, the director shall make an appointment to become immediately effective for the unexpired term.

(3) As used in subsection (1) of this section, "summit of the Cascade Mountains" means a line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Hood River County; thence southerly along the western boundaries of Hood River, Wasco, Jefferson, Deschutes and Klamath Counties to the southern boundary of the State of Oregon.

NOTE: Inserts omitted county in (3).

SECTION 69. ORS 570.770 is amended to read:

570.770. (1) The Invasive Species Council is established within the State Department of Agriculture. Except as provided in subsection (2) of this section, the council consists of 22 members, as follows:

(a) Eight members are ex officio voting members with terms that do not expire. The ex officio voting members are:

- (A) The Director of Agriculture, or a designated representative.
- (B) The Director of the Center for Lakes and Reservoirs, or a designated representative.
- (C) The State Fish and Wildlife Director, or a designated representative.
- (D) The director of the Sea Grant College program, or a designated representative.
- (E) The State Forester, or a designated representative.
- (F) The Director of the Department of Environmental Quality, or a designated representative.
- (G) The State Marine Director, or a designated representative.
- (H) The State Parks and Recreation Director, or a designated representative.

(b) Ten members are voting members. The ex officio voting members identified in paragraph (a) of this subsection shall jointly appoint the voting members for a term of two years, but each appointed voting member serves at the pleasure of the ex officio voting members. Before a voting member's term expires, the ex officio voting members shall appoint a successor with a term that begins on January 1 next following. An appointed voting member may not serve on the council for more than two consecutive terms. If a vacancy in a voting member's position occurs, the ex officio members shall make an appointment that becomes immediately effective and that continues until the end of the term of the vacating voting member. In appointing voting members, the ex officio voting members shall ensure to the extent possible that the appointments represent the geographic, cultural and economic diversity of this state. Each appointment of a voting member must represent a different category of interest, as follows:

(A) A member who represents an organization or association with the purpose of advocating environmental stewardship;

(B) A member who represents an organization or association that advocates on behalf of private industry in this state;

(C) A member who represents a native American or Indian tribe or association of tribes within this state;

(D) A member who represents an entity, regardless of the form of the entity, with a headquarters or principal operations in Coos, Curry, Douglas, Jackson or Josephine Counties and with a purpose of responding to invasive species concerns;

(E) A member who represents an entity, regardless of the form of the entity, with a headquarters or principal operations in Gilliam, Hood River, Jefferson, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco or Wheeler Counties and with a purpose of responding to invasive species concerns;

(F) A member who represents an entity, regardless of the form of the entity, with a headquarters or principal operations in Clatsop, Columbia, Lincoln or Tillamook Counties and with a purpose of responding to invasive species concerns;

(G) A member who represents an entity, regardless of the form of the entity, with a headquarters or principal operations in Baker, Crook, Deschutes, Grant, Harney, Klamath, Lake or Malheur Counties and with a purpose of responding to invasive species concerns;

(H) A member who represents an entity, regardless of the form of the entity, with a headquarters or principal operations in Benton, Lane, Linn, Marion or Polk Counties and with a purpose of responding to invasive species concerns;

(I) A member who represents an entity, regardless of the form of the entity, with a headquarters or principal operations in Clackamas, Multnomah, Washington or Yamhill Counties and with a purpose of responding to invasive species concerns; and

(J) A member who represents the public.

(c) Four members are ex officio nonvoting members without a specified term of service. The ex officio nonvoting members are:

(A) The State Invasive Species Coordinator;

(B) A representative of the Governor with expertise in natural resource issues;

(C) A member of the Senate appointed by the President of the Senate; **and**

(D) A member of the House of Representatives appointed by the Speaker of the House of Representatives.

(2) The voting members of the council shall invite the United States Department of the Interior, the United States Department of Agriculture and the United States Department of Homeland Security, and may invite other federal agencies, to designate representatives as ex officio nonvoting members of the council without specified terms of service.

(3) A member of the council is not entitled to compensation under ORS 292.495. A member of the council other than the State Invasive Species Coordinator is not entitled to reimbursement for expenses. At the discretion of the council, council members may be reimbursed from funds available to the council for actual and necessary travel and other expenses that members of the council incur in performing the members' official duties, subject to the limits described in ORS 292.495.

NOTE: Inserts missing conjunction in (1)(c)(C).

SECTION 70. ORS 646A.670 is added to and made a part of ORS 646A.640 to 646A.673.

NOTE: Add statute to appropriate series.

SECTION 71. ORS 646A.773 is amended to read:

646A.773. (1)(a) A guaranteed asset protection waiver is not insurance and is not subject to the provisions of the Insurance Code. A person, other than an insurer, that sells a guaranteed asset protection waiver in compliance with ORS [646A.700] **646A.770** to 646A.787 does not become subject to the Insurance Code by reason of the sale.

(b) Notwithstanding any other provision of law, any cost for a guaranteed asset protection waiver into which a borrower enters, whether in compliance with the Truth in Lending Act, 15 U.S.C. 1601 et seq., and regulations promulgated under the Truth in Lending Act, or not, must be stated separately in the finance agreement and is not a finance charge or interest.

(2) ORS [646A.700] **646A.770** to 646A.787 do not apply to:

(a) An insurance policy that an insurer offers under the provisions of the Insurance Code;

(b) A debt cancellation contract or debt suspension agreement offered in compliance with 12 C.F.R. 37.2 or 12 C.F.R. part 721, both as in effect on January 1, 2016;

(c) A state bank, as defined in ORS 706.008, or a credit union, as defined in ORS 723.008; or

(d)(A) An addendum to a finance agreement that is sold or assigned to a licensee, as defined in ORS 725.010, and that is secured by a motor vehicle, under the terms of which a creditor agrees to waive the creditor's right to collect all or part of an amount due from a borrower under the terms of the finance agreement or to release the borrower from an obligation to pay the creditor an amount due under the finance agreement if the motor vehicle:

(i) Suffers physical damage that is equivalent to a total loss; or

(ii) Is stolen and not recovered.

(B) The addendum to the finance agreement described in subparagraph (A) of this paragraph is not insurance and is not subject to the provisions of the Insurance Code.

NOTE: Corrects series reference in (1)(a) and (2).

SECTION 72. ORS 653.307 is amended to read:

653.307. (1) In accordance with the applicable provisions of ORS chapter 183, the Bureau of Labor and Industries shall adopt rules governing annual employment certificates required under this section. After September 9, 1995, the rules governing the total hours a minor can work [shall] **may** not be more restrictive than the requirements of the federal Fair Labor Standards Act (29 U.S.C. [202] **201**, et seq.), unless otherwise provided by Oregon law.

(2) An employer who hires minors shall apply to the bureau for an annual employment certificate to employ minors. The application shall be on a form provided by the bureau and shall include, but need not be limited to:

(a) The estimated or average number of minors to be employed during the year.

(b) A description of the activities to be performed.

(c) A description of the machinery or other equipment to be used by the minors.

(3) Once a year, the bureau shall provide to all employers applying for an annual employment certificate an information sheet summarizing all rules and laws governing the employment of minors.

(4) Failure by an employer to comply with ORS 653.305 to 653.340 or with the regulations adopted by the bureau pursuant to this section shall subject the employer to revocation of the right to hire minors in the future at the discretion of the bureau, provided that an employer shall be granted a hearing before the bureau prior to such action being taken.

(5) All school districts shall cooperate with the bureau and make available, upon request of the bureau, information concerning the age and schooling of minors.

NOTE: Updates word choice and corrects citation of federal Act in (1).

SECTION 73. ORS 660.324 is amended to read:

660.324. (1) The State Workforce and Talent Development Board shall identify:

(a) Key industries in this state and the workforce skills needed for key industries to grow and thrive;

(b) In collaboration with workforce representatives, needs for education, training, work experience, and job preparation to ensure Oregonians access to stable high-wage jobs and employment advancement; and

(c) Opportunities for partnerships with key industry sectors to coordinate workforce development, economic development and education in response to industry and workforce needs.

(2) The board shall assist the Governor in:

(a) Developing Oregon's workforce development system;

(b) Ensuring timely consultation and collaboration with chief elected officials, local workforce development boards and other workforce stakeholders, including but not limited to business and labor organizations and organizations working with persons with disabilities, persons living at or below 100 percent of the federal poverty guidelines and the chronically unemployed and underemployed;

(c) Reviewing and approving local workforce plans;

(d) Developing, as required by the federal Act, allocation formulas for the distribution of funds to local workforce development areas for adult employment and training activities and for youth activities that are developed by the local workforce development boards;

(e) Working with local workforce development boards to increase efficiencies and align workforce programs and services with local needs;

(f) Recommending the duties and responsibilities of state agencies to implement the federal Act, to avoid conflicts of interest and to capitalize on the experience developed by workforce partners that are efficient and effective at meeting the requirements of the federal Act;

(g) Participating in the development of a coordinated statewide system of activities and services that includes both mandatory and optional partners of the one-stop delivery system, as provided in the federal Act;

(h) Providing for the development, accountability and continuous improvement of comprehensive workforce performance measures to assess the effectiveness of the workforce development activities in this state;

(i) Developing a statewide employment statistics system, as described in section 15(e) of the Wagner-Peyser Act (29 U.S.C. 49L-2(e)); and

(j) Preparing an annual report and submitting it to the United States Department of Labor.

(3) The State Workforce and Talent Development Board, in partnership with the Governor, shall establish criteria for use by chief elected officials in appointing members to local workforce development boards in accordance with the requirements of section 3122 of the federal Workforce Innovation and Opportunity Act. The State Workforce and Talent Development Board shall establish the following requirements:

(a) To transact business at a meeting of a local workforce development board, a quorum of members must participate. A quorum shall consist of a majority of the members. At least 25 percent of the members participating must be representatives of business.

(b) When appropriate and upon a request from the chief elected official of a county or the City of Portland, the State Workforce and Talent Development Board shall consider the county or the City of Portland to be a candidate for designation as a local workforce development area. The board shall consult with the county or the City of Portland before designating *it* **the county or the City of Portland** as a local workforce development area. After considering the criteria in section 3121 of the federal Act for designating local workforce development areas, chief elected officials may submit a request to the board to combine their units of government into a local workforce development area. The board shall make recommendations to the Governor about the designation of local workforce development areas. Only the Governor may designate local workforce development areas. The Governor must show just cause for not designating a requested local workforce development area. A county or the City of Portland may submit an appeal to the board, as provided in section 3121 of the federal Act, if the Governor does not grant the county's or the city's request to designate a local workforce development area.

(4) The State Workforce and Talent Development Board shall provide guidance and direction to local workforce development boards in the development of local workforce plans. The State Workforce and Talent Development Board shall adopt policies that:

(a) Require each local workforce development board, in partnership with its chief elected officials and in accordance with section 3123 of the federal Act, to develop and submit to the Governor and the State Workforce and Talent Development Board a strategic local workforce plan that includes, but is not limited to, performance goals; and

(b) Permit each local workforce development board, in consultation with its chief elected officials:

(A) To determine, consistent with the requirements of the federal Act, the appropriate level of services based on the workforce needs in the local workforce development area; and

(B) To designate or certify one-stop operators and to terminate for cause the eligibility of such operators.

(5) The State Workforce and Talent Development Board may charter and enter into performance compacts with local workforce development boards.

(6) The State Workforce and Talent Development Board shall:

(a) Function as the primary advisory committee to the Employment Department in conjunction with the Employment Department Advisory Council established under ORS 657.695;

(b) Collaborate with other advisory bodies also tasked with workforce development, including but not limited to the Oregon State Rehabilitation Council, the Commission for the Blind, the State Apprenticeship and Training Council and the Higher Education Coordinating Commission;

(c) Work with the Oregon Business Development Commission to identify areas of common interest to efficiently align resources, recommend common strategies and provide accountability for reaching statewide goals; and

(d) Hold state workforce agencies and local workforce development boards accountable for meeting performance goals and system outcomes.

(7) The State Workforce and Talent Development Board shall convene, engage and coordinate with senior executives of identified key industries in this state, the Oregon Business Development

Commission, the Higher Education Coordinating Commission, the Department of Education, the Bureau of Labor and Industries, the STEM Investment Council, local workforce development boards, the Employment Department, the Department of Human Services, the Commission for the Blind, [*the Chief Education Office,*] the Youth Development Council and any other partners from training or workforce development entities in this state to:

(a) Determine needs across identified key industries in this state, including challenges and opportunities in developing and growing relevant talent pipelines;

(b) Ensure that the talent pipeline development infrastructure includes:

(A) A listening process to collect workforce needs of employers from identified key industries in this state;

(B) Curriculum alignment for high-demand occupation skill needs;

(C) Prediction and monitoring of national trends relating to high-demand industries and occupations;

(D) Occupation-aligned education and training options with a clearly articulated progression;

(E) Skills assessments; and

(F) Academic career counseling;

(c) Utilize sector partnerships to:

(A) Advise the development of career pathway programs for critical occupations in identified key industries in this state; and

(B) Ensure the coordination of education, economic development, business and workforce initiatives between key partners to develop a strong talent pipeline;

(d) Leverage and optimize existing measures and data systems to improve systems alignment and interagency communication; and

(e) Ensure state alignment and coordination between industry sector partnerships and initiatives in the local workforce development areas.

(8)(a) Every biennium, the State Workforce and Talent Development Board shall coordinate and collaborate with entities listed under subsection (7) of this section to create a single, unified state Workforce and Talent Development Plan.

(b) The Workforce and Talent Development Plan must include:

(A) A strategy, with quantitative goals, for the statewide workforce development system for the State of Oregon in accordance with section 3111 of the federal Workforce Innovation and Opportunity Act;

(B) Quantifiable goals designed to promote Oregonians' self-sufficiency and that will empower Oregonians to gain independence from public assistance and move up the socioeconomic ladder;

(C) Expectations for performance and the priorities for delivery of services to local workforce development boards and state workforce agencies;

(D) Industry-based information and data from the Employment Department and other agencies and entities listed in subsection (7) of this section related to talent needs and gaps;

(E) Analysis of data regarding the skills required for identified key industry jobs;

(F) Information regarding the status of career pathway programs targeted at identified key industries in this state;

(G) Recommendations related to advancing talent pipeline and career pathways development based on the identified talent issues and trends;

(H) Recommendations regarding the alignment and consistency of data nomenclature, collection practices and data sharing;

(I) Utilization and, as appropriate, expansion of existing data-sharing agreements between agencies and partners;

(J) Identification of talent issues and trends related to identified key industries in this state that are in strategic alignment with state and local workforce and economic priorities;

(K) Identification and prioritization of the urgent talent gaps of identified key industries in this state;

(L) A response to immediate talent needs through the creation of additional opportunities for Oregonians to pursue education and training in disciplines critical to the advancement of identified key industries in this state;

(M) Ways to strengthen efforts to enhance student work experience and job preparedness in high-demand and critical occupations;

(N) New means of delivering workforce training and proficiency-based education to enhance program efficiency, upgrading and sharing resources and facilities and improving student outcomes and access to typically underrepresented populations while meeting talent needs of traded sector and high growth industries; and

(O) To increase the skills of the existing professional and technical workforce, including the issuance of certifications, badges and industry-based credentials.

(c) The State Workforce and Talent Development Board shall:

(A) Update the plan every biennium; and

(B) Submit a report about the plan every year to:

(i) The Governor; and

(ii) The Legislative Assembly in the manner provided by ORS 192.245.

NOTE: Eliminates indefinite pronoun in (3)(b); deletes reference to sunsetted agency in (7).

SECTION 74. ORS 672.060 is amended to read:

672.060. Registration under ORS 672.002 to 672.325 is not required for the following:

(1) The performance of work as an employee or a subordinate of a registered professional engineer if:

(a) The work does not include final engineering designs or decisions;

(b) The work is done under the supervision and control of and is verified by a registered professional engineer; and

(c) The [person] **employee or subordinate** does not by verbal claim, sign, advertisement, letterhead or card or in any other way imply that the [person] **employee or subordinate** is or purports to be a professional engineer or registered professional engineer.

(2) The performance of engineering work by an employee, sole proprietorship, firm, partnership or corporation:

(a) On property owned or leased by the employer, sole proprietorship, firm, partnership or corporation, or on property in which the employer, sole proprietorship, firm, partnership or corporation has an interest, estate or possessory right; and

(b) That affects exclusively the property or interests of the employer, sole proprietorship, firm, partnership or corporation, unless the performance affects the health or safety of the public or an employee.

(3) The performance of engineering work by a person, or by full-time employees of the person, if:

(a) The engineering work is in connection with or incidental to the operations of the person; and

(b) The engineering work is not offered directly to the public.

(4) An offer by an employee, sole proprietorship, firm, partnership or corporation to perform engineering work if:

(a) The employer, sole proprietorship, firm, partnership or corporation holds a certificate of registration to engage in the practice of professional engineering issued by the proper authority of any other state, a territory or possession of the United States or a foreign country; and

(b) The offer includes a written statement that the offeror is not registered to practice engineering in the State of Oregon, but will comply with ORS 672.002 to 672.325 by having an individual holding a valid certificate of registration in this state in responsible charge of the work prior to performing any engineering work within this state.

(5) The offering by a construction contractor licensed under ORS chapter 701 of services constituting the performance of engineering work if:

(a) The services are appurtenant to construction services to be provided by the construction contractor;

(b) The services constituting the practice of engineering are performed by an engineer or engineers registered under ORS 672.002 to 672.325; and

(c) The offer by the construction contractor discloses in writing that the contractor is not an engineer and identifies the engineer or engineers that will perform the services constituting the practice of engineering.

(6) The execution of engineering work designed by a professional engineer or the supervision of the construction of engineering work as a foreman or superintendent.

(7) The making of drawings or specifications for, or the supervision of the erection, enlargement or alteration of, a building, or an appurtenance thereto, if the building has a ground area of 4,000 square feet or less and is not more than 20 feet in height from the top surface of lowest flooring to the highest interior overhead finish of the structure. The exemption in this subsection does not apply to a registered professional engineer.

(8) The making of drawings or specifications for, or the supervision of the erection, enlargement or alteration of, a building, or an appurtenance thereto, if the building is to be used for a single family residential dwelling or farm building or is a structure used in connection with or auxiliary to a single family residential dwelling or farm building, including but not limited to a three-car garage, barn or shed or a shelter used for the housing of domestic animals or livestock. The exemption in this subsection does not apply to a registered professional engineer.

(9) The performance of work as a registered architect practicing architecture.

(10) The performance of work as a registered environmental health specialist or registered environmental health specialist trainee working under the supervision of a registered environmental health specialist practicing environmental sanitation, or a registered waste water specialist or registered waste water specialist trainee working under the supervision of a registered waste water specialist practicing waste water sanitation.

(11) The performance of land surveying work under the supervision of a registered professional land surveyor or registered professional engineer. The exemption in this subsection does not allow an engineer to supervise a land surveying activity the engineer could not personally perform under ORS 672.025.

(12) The performance of land surveying by a person:

(a) On property owned or leased by the person, or on property in which the person has an interest, estate or possessory right; and

(b) That affects exclusively the property or interests of the person, unless the performance affects the health or safety of the public or an employee.

(13) The performance of land surveying work by a landowner within the boundaries of the landowner's land or by the landowner's regular employee as part of the employee's official duties within the boundaries of the land of the employer.

(14) An offer by a person to perform land surveying if:

(a) The person holds a certificate of registration to engage in the practice of land surveying issued by the proper authority of any other state, a territory or possession of the United States or a foreign country; and

(b) The offer includes a written statement that the offeror is not registered to practice land surveying in the State of Oregon, but will comply with ORS 672.002 to 672.325 by having an individual holding a valid certificate of registration in this state in responsible charge of the work prior to performing any land surveying work within this state.

(15) An offer by a person to perform photogrammetric mapping if:

(a) The person holds a certificate of registration to engage in the practice of professional photogrammetric mapping issued by the proper authority of any other state, a territory or possession of the United States or a foreign country; and

(b) The offer includes a written statement that the offeror is not registered to practice photogrammetric mapping in the State of Oregon, but will comply with ORS 672.002 to 672.325 by hav-

ing an individual holding a valid certificate of registration in this state in responsible charge of the work prior to performing any photogrammetric mapping work within this state.

(16) The transcription of existing georeferenced data into a Geographic Information System or Land Information System format by manual or electronic means, and the maintenance of that data, if the data are clearly not intended to indicate the authoritative location of property boundaries, the precise shape or contour of the earth or the precise location of fixed works of humans.

(17) Activities under ORS 306.125 or 308.245. This exemption applies to the transcription of tax maps, zoning maps and other public data records into Geographic Information System or Land Information System formatted cadastre and the maintenance of those cadastre, if:

(a) The data are not modified for other than graphical purposes; and

(b) The data are clearly not intended to authoritatively represent property boundaries.

(18) The preparation of maps or the compilation of databases depicting the distribution of natural or cultural resources, features or phenomena, if the maps or data are not intended to indicate the authoritative location of property boundaries, the precise shape or contour of the earth or the precise location of fixed works by humans.

(19) The preparation by a federal agency or its contractors of military maps, quadrangle topographic maps, satellite imagery or other maps or images that do not define real property boundaries.

(20) The preparation or transcription by a federal agency or its contractors of documents or databases into a Geographical Information System or Land Information System format, including but not limited to the preparation or transcription of federal census and other demographic data.

(21) The preparation by a law enforcement agency or its contractors of documents or maps for traffic accidents, crime scenes or similar purposes depicting physical features or events or generating or using georeferenced data involving crime statistics or criminal activities.

(22) Activities of a peace officer, as defined in ORS 161.015, or a fire service professional, as defined in ORS 181A.355, in conducting, reporting on or testifying about or otherwise performing duties regarding an official investigation.

(23) The creation of general maps prepared for private firms or governmental agencies:

(a) For use as guides to motorists, boaters, aviators or pedestrians;

(b) For publication in a gazetteer or an atlas as an educational tool or reference publication;

(c) For use in the curriculum of any course of study;

(d) If produced by any electronic or print media, for use as an illustrative guide to the geographic location of any event; or

(e) If prepared for conversational or illustrative purposes, including but not limited to for use as advertising material or user guides.

NOTE: Makes terminology consistent in (1)(c).

SECTION 75. ORS 673.185 is amended to read:

673.185. (1) When the Oregon Board of Accountancy proposes to refuse to issue a certificate under ORS 673.040, license under ORS 673.100, permit under ORS 673.150[,] or registration under ORS 673.160, proposes to refuse to renew a permit or registration or proposes to revoke or suspend a certificate, registration, license or permit, opportunity for hearing shall be accorded as provided in ORS chapter 183 [*and chapter 734, Oregon Laws 1971*].

(2) When the board institutes or continues a disciplinary action under ORS 673.170, the board is not deprived of its authority to institute or continue the disciplinary action against a licensee or other person subject to the jurisdiction of the board by:

(a) The surrender, retirement or other forfeiture, expiration, lapse or revocation of a license issued by the board; or

(b) The cessation of services offered or provided in this state by a person authorized to practice public accountancy in this state under ORS 673.153.

(3) Adoption of rules, conduct of hearings, issuance of orders and judicial review of rules and orders shall be in accordance with ORS chapter 183 [*and chapter 734, Oregon Laws 1971*].

(4) The decision of the board under subsection (1) of this section shall be by majority vote.

NOTE: Deletes comma in (1) in conformance with legislative style; deletes redundant reference in (1) and (3).

SECTION 76. ORS 675.370 (2) is added to and made a part of ORS 675.365 to 675.380.

NOTE: Adds statute to appropriate series.

SECTION 77. ORS 676.340 is amended to read:

676.340. (1) Notwithstanding any other provision of law, a health practitioner described in subsection (7) of this section who has registered under ORS 676.345 and who provides health care services without compensation is not liable for any injury, death or other loss arising out of the provision of those services, unless the injury, death or other loss results from the gross negligence of the health practitioner.

(2) A health practitioner may claim the limitation on liability provided by this section only if the patient receiving health care services, or a person who has authority under law to make health care decisions for the patient, signs a statement that notifies the patient that the health care services are provided without compensation and that the health practitioner may be held liable for death, injury or other loss only to the extent provided by this section. The statement required under this subsection must be signed before the health care services are provided.

(3) A health practitioner may claim the limitation on liability provided by this section only if the health practitioner obtains the patient's informed consent for the health care services before providing the services, or receives the informed consent of a person who has authority under law to make health care decisions for the patient.

(4) A health practitioner provides health care services without compensation for the purposes of subsection (1) of this section even though the practitioner requires payment of laboratory fees, testing services and other out-of-pocket expenses.

(5) A health practitioner provides health care services without compensation for the purposes of subsection (1) of this section even though the practitioner provides services at a health clinic that receives compensation from the patient, as long as the health practitioner does not personally receive compensation for the services.

(6) In any civil action in which a health practitioner prevails based on the limitation on liability provided by this section, the court shall award all reasonable attorney fees incurred by the health practitioner in defending the action.

(7) This section applies only to:

- (a) A physician licensed under ORS chapter 677;
- (b) A nurse licensed under ORS 678.040 to 678.101;
- (c) A nurse practitioner licensed under ORS 678.375 to 678.390;
- (d) A clinical nurse specialist licensed under ORS 678.370 and 678.372;
- (e) A physician assistant licensed under ORS 677.505 to 677.525;
- (f) A dental hygienist licensed under ORS 680.010 to 680.205;
- (g) A dentist licensed under ORS [679.060 to 679.180] **chapter 679**;
- (h) A pharmacist licensed under ORS chapter 689;
- (i) An optometrist licensed under ORS chapter 683;
- (j) A naturopathic physician licensed under ORS chapter 685; and
- (k) An acupuncturist licensed under ORS 677.757 to 677.770.

NOTE: Standardizes series citation in (7)(g).

SECTION 78. ORS 678.023 is amended to read:

678.023. An individual may not use the title "nurse" unless the individual:

(1) Has earned a nursing degree or a nursing certificate from a nursing education program that is:

(a) Approved by the Oregon State Board of Nursing; or

(b) Accredited or approved by another state or United States territory as described under ORS [678.010] **678.040** and approved by the board; and

(2) Is licensed by a health professional regulatory board as defined in ORS 676.160 to practice the particular health care profession in which the individual's nursing degree or nursing certificate was earned.

NOTE: Corrects statutory reference in (1)(b).

SECTION 79. ORS 678.730 is amended to read:

678.730. (1) An individual qualifies for licensure as a nursing home administrator if the individual:

- (a) Has a baccalaureate degree from an accredited school of higher education;
- (b) Has passed an examination as provided in ORS 678.740; and
- (c) Has completed training requirements established by the [*Nursing Home*] **Long Term Care Administrators Board** by rule.

(2) The requirement that an individual have a baccalaureate degree under subsection (1)(a) of this section does not apply to a person who was licensed as a nursing home administrator in any state or territory of the United States before January 1, 1983.

(3) The training requirements established under subsection (1)(c) of this section do not apply to a person who has at least one year of experience as an administrator of a dual facility.

(4) Notwithstanding the requirements established under subsection (1) of this section, upon the request of the governing body of a hospital, as defined in ORS 442.015, the board shall adopt standards by rule that deem a health care administrator to have met the requirements for licensure as a nursing home administrator if the health care administrator possesses an advanced degree in management and has at least 10 years of experience in health care management.

NOTE: Eliminates reference to obsolete agency and substitutes reference to appropriate agency in (1)(c) (see chapter 61, Oregon Laws 2018).

SECTION 80. ORS 706.005 is amended to read:

706.005. As used in the Bank Act:

(1)(a) "Access area" means any paved walkway or sidewalk within 50 feet of an automated teller machine or night deposit facility.

(b) "Access area" does not include publicly maintained sidewalks or roads.

(2) "Access device" means:

(a) An access device as defined in Federal Reserve Board Regulation E (12 C.F.R. Part 205) adopted under the Electronic Fund Transfer Act (15 U.S.C. [1601] **1693**, et seq.); or

(b) A key or other mechanism that a financial institution issues to a customer to give the customer access to the financial institution's or bank's night deposit facility.

(3) "Acquisition transaction" means:

(a) A sale and purchase of all or substantially all of a bank's assets that does not occur in the bank's ordinary course of business; or

(b) The transfer and assumption of all or substantially all of a bank's liabilities.

(4)(a) "Automated teller machine" or "ATM" means any electronic information processing device located in this state that:

(A) Accepts or dispenses cash in connection with a credit, deposit or convenience account, provides information and initiates transactions in accordance with the request or instruction of a customer or the customer's agent; and

(B) Is unstaffed except for persons that install the device, provide security or provide periodic servicing, maintenance or repair.

(b) "Automated teller machine" or "ATM" does not include a device that is used solely to facilitate check guarantees or check authorizations, or that is used in connection with accepting or dispensing cash on a person to person basis, such as by a store cashier.

(5) "Bank Act" means ORS chapters 706 to 716.

(6)(a) "Banking business" or "business of banking" means a regular business of receiving or accepting money or the equivalent of money on deposit, whether the deposit is made subject to check or is evidenced by a certificate of deposit, a pass book or other writing or evidence.

(b) "Banking business" or "business of banking" does not include:

- (A) Depositing money or the equivalent of money in escrow or with an agent, pending an investment in real estate or securities for or on account of a principal;
- (B) The business of a credit union;
- (C) Accepting deposits in connection with purchasing or leasing property or services; or
- (D) Accepting deposits through an ATM or night deposit facility.
- (7) "Banking day" has the meaning given that term in ORS 708A.650.
- (8) "Branch" means an office or other place, except a principal place of business or an ATM, at which:
 - (a) A bank engages in banking business; or
 - (b) A trust company transacts trust business.
- (9) "Candlefoot power" means a light intensity of candles on a horizontal plane at 36 inches above ground level and 5 feet in front of the area to be measured.
- (10) "Capital debentures" means capital notes, capital debentures and any other form of unsecured obligations that an institution or stock savings bank issues to evidence borrowings in which the rights of the lender are subordinate to the rights of the depositors.
- (11)(a) "Defined parking area" means a portion of any parking area or a single level in a multiple-story parking area that is open for customer parking and is:
 - (A) Contiguous to the access area of an ATM or night deposit facility;
 - (B) Regularly, principally and lawfully used for parking by users of the ATM or night deposit facility while the users conduct transactions during hours of darkness;
 - (C) Owned or leased by the operator of the ATM or night deposit facility or owned or controlled by the party that leases the ATM or night deposit facility site to the operator; and
 - (D) The parking area that the operator of the ATM or night deposit facility designates as the most directly accessible to the ATM or night deposit facility, if the parking area is a single level in a multiple-story parking area.
 - (b) "Defined parking area" does not include any parking area that:
 - (A) Users of an ATM or night deposit facility do not regularly use for parking while conducting transactions during the hours of darkness; or
 - (B) Is physically closed to access or has conspicuous signs that indicate that the parking area is closed.
- (12) "Department" means the Department of Consumer and Business Services.
- (13) "Director" means the Director of the Department of Consumer and Business Services.
- (14) "Document of title" means document of title as defined in ORS 71.2010.
- (15) "Federal Reserve Act" means the Act of Congress approved December 23, 1913 (38 Stat. 251), as amended.
- (16) "Federal Reserve Bank" means a Federal Reserve Bank that is created and organized under the authority of the Federal Reserve Act.
- (17) "Federal Reserve Board" means the Federal Reserve Board created and described in the Federal Reserve Act.
- (18) "Home state" means:
 - (a) With respect to a state bank, the state under the laws of which the state bank is incorporated or otherwise organized;
 - (b) With respect to a federal bank, the state in which the main office of the federal bank is located;
 - (c) With respect to an extranational institution, the state that the extranational institution or the Board of Governors of the Federal Reserve System elects as the extranational institution's home state; or
 - (d) With respect to a financial holding company or a bank holding company, the state in which the total deposits of all banking subsidiaries of the financial holding company or bank holding company are the largest on the date on which the company becomes a financial holding company or a bank holding company.

(19) "Hours of darkness" means the period that commences 30 minutes after sunset and ends 30 minutes before sunrise.

(20) "Loan production office" means a physical location in this state at which representatives of an insured institution or extranational institution hold themselves out to the public as providing loan origination services, leasing services or services of a similar nature, but at which representatives of the insured institution or extranational institution do not conduct banking business.

(21) "Night deposit facility" means a receptacle that a financial institution provides for the financial institution's customers to use to deliver cash, checks and other items to the financial institution.

(22) "Obligations" includes:

(a) The direct liability of a maker or acceptor of paper discounted with or sold to an institution;

(b) The liability of a drawer, indorser or assignor;

(c) Obligations of the several members of a copartnership or association;

(d) Obligations of all subsidiaries of a corporation in which the corporation owns or controls 50 percent or more of the capital stock; and

(e) The liability of a lessee under a lease.

(23) "Officer" of a banking institution means a chief executive officer, president, any vice president, secretary, treasurer, cashier or any individual *[that]* **who** the board of a banking institution designates as an officer under ORS 707.700.

(24) "Operator" means any financial institution or other business entity, or any person that operates an ATM or night deposit facility.

(25) "Outside director" means a member of the board of directors of a banking institution who is not employed by the banking institution or by any holding company or subsidiary of the banking institution.

(26) "Paid-in capital" means the aggregate amount that an institution or stock savings bank receives from issuing the institution's or stock savings bank's stock or that the institution or stock savings bank transfers from retained earnings.

(27) "Person" means an individual, corporation, limited liability company, partnership, association, joint stock company, business trust or unincorporated organization.

(28) "Stockholders' equity" means the aggregate of paid-in capital and retained earnings of an institution or Oregon stock savings bank.

(29) "Trust business" means acting as a trustee of a trust.

NOTE: Corrects federal Act citation in (2)(a); updates word choice in (23).

SECTION 81. ORS 714.300 is amended to read:

714.300. The issuers of access devices shall furnish customers receiving the devices with notices of basic safety precautions which customers should employ while using an ATM or night deposit facility. This information shall be furnished by personally delivering or by mailing the information to each customer whose mailing address as to the account to which the access device relates is in this state. This information shall be furnished with respect to access devices issued after July 1, 1994, at or before the time the customer is furnished with *[his or her]* **the customer's** access device. With respect to a customer to whom an access device has been issued on or before July 1, 1994, the information shall be delivered or mailed to the customer on or before December 31, 1994. Only one notice need be furnished per household, and if access devices are furnished to more than one customer for a single account or set of accounts or on the basis of a single application or other request for the access devices, only a single notice need be furnished in satisfaction of the notification responsibilities as to all those customers. The information may be included with other disclosures related to the access device furnished to the customer, such as with any initial or periodic disclosure statement furnished pursuant to the Electronic Fund Transfer Act (15 U.S.C. *[1501]* **1693** et seq.).

NOTE: Eliminates use of gendered pronouns and corrects federal Act citation.

SECTION 82. ORS 723.134 is amended to read:

723.134. (1) The Director of the Department of Consumer and Business Services by rule may establish guidelines for determining whether a credit union predominantly serves low-income mem-

bers. If the director, using the guidelines established in accordance with this subsection, determines that a credit union predominantly serves low-income members, the credit union may:

(a) Receive deposits from a person that is not a member of the credit union and allow the person to hold shares in the credit union; and

(b) Issue secondary capital accounts that are subject to any terms and conditions that the Director of the Department of Consumer and Business Services may prescribe by rule.

(2) For purposes of this section, "secondary capital account" means a deposit or share account that is not insured by the National Credit Union [*Share Insurance Fund*] **Administration**, or another primary share insurer approved by the Director of the Department of Consumer and Business Services, and that is subordinate to all other claims against the credit union, including claims of creditors, owners of share accounts and the National Credit Union [*Share Insurance Fund*] **Administration** or another insurer approved by the Director of the Department of Consumer and Business Services. Secondary capital accounts that the credit union issues in accordance with this section are equity as defined in ORS 723.001 for the purposes of ORS 723.631 and for any other purpose.

(3) The powers set forth in this section are in addition to the powers the credit union has under ORS 723.152.

NOTE: Updates language in (2) to reflect insuring agency.

SECTION 83. ORS 743B.550 is amended to read:

743B.550. Nothing in ORS 743.008, 743A.012, [743B.195 to 743B.204,] **743B.195, 743B.197, 743B.200, 743B.202, 743B.204,** 743B.250, 743B.400, 743B.403, 743B.420, 743B.423 and 743B.550 shall be construed to require disclosure of information that is otherwise privileged or confidential under any other provision of law.

NOTE: Deconstructs nonsensical series reference.

SECTION 84. ORS 750.055 is amended to read:

750.055. (1) The following provisions apply to health care service contractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

(a) ORS 705.137, 705.138 and 705.139.

(b) ORS 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386, 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.485, as provided in subsection (2) of this section, ORS 731.488, 731.504, 731.508, 731.509, 731.510, 731.511, 731.512, 731.574 to 731.620, 731.640 to 731.652, 731.730, 731.731, 731.735, 731.737, 731.750, 731.752, 731.804, 731.808 and 731.844 to 731.992.

(c) ORS 732.215, 732.220, 732.230, 732.245, 732.250, 732.320, 732.325 and 732.517 to 732.596, not including ORS 732.582.

(d) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695 to 733.780.

(e) ORS 734.014 to 734.440.

(f) ORS 742.001 to 742.009, 742.013, 742.016, 742.061, 742.065, 742.150 to 742.162 and 742.518 to 742.542.

(g) ORS 743.004, 743.005, 743.007, 743.008, 743.010, 743.018, 743.020, 743.022, 743.023, 743.028, 743.029, 743.038, 743.040, 743.044, 743.050, 743.100 to 743.109, 743.402, 743.405, 743.406, 743.417, 743.472, 743.492, 743.495, 743.498, 743.522, 743.523, 743.524, 743.526, 743.535, 743.550, 743.650 to 743.656, 743.680 to 743.689, 743.788 and 743.790.

(h) ORS 743A.010, 743A.012, 743A.014, 743A.020, 743A.034, 743A.036, 743A.040, 743A.044, 743A.048, 743A.051, 743A.052, 743A.058, 743A.060, 743A.062, 743A.063, 743A.064, 743A.065, 743A.066, 743A.068, 743A.070, 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104, 743A.105, 743A.108, 743A.110, 743A.124, 743A.140, 743A.141, 743A.148, 743A.150, 743A.160, 743A.168, 743A.170, 743A.175, 743A.185, 743A.188, 743A.190, 743A.192, 743A.250, 743A.252 and 743A.260 and section 2, chapter 771, Oregon Laws 2013.

(i) ORS 743.025, 743B.001, 743B.003 to 743B.127, 743B.128, 743B.130, [743B.195 to 743B.204,] **743B.195, 743B.197, 743B.200, 743B.202, 743B.204,** 743B.220, 743B.222, 743B.225, 743B.227, 743B.250, 743B.252, 743B.253, 743B.254, 743B.255, 743B.256, 743B.257, 743B.258, 743B.280 to 743B.285, 743B.287,

743B.300, 743B.310, 743B.320, 743B.323, 743B.330, 743B.340, 743B.341, 743B.342, 743B.343 to 743B.347, 743B.400, 743B.403, 743B.407, 743B.420, 743B.423, 743B.450, 743B.451, 743B.452, 743B.453, 743B.470, 743B.475, 743B.505, 743B.550, 743B.555, 743B.601, 743B.602 and 743B.800.

(j) The following provisions of ORS chapter 744:

(A) ORS 744.052 to 744.089, 744.091 and 744.093, relating to the regulation of insurance producers;

(B) ORS 744.602 to 744.665, relating to the regulation of insurance consultants; and

(C) ORS 744.700 to 744.740, relating to the regulation of third party administrators.

(k) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610, 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

(2) The following provisions of the Insurance Code apply to health care service contractors except in the case of group practice health maintenance organizations that are federally qualified pursuant to Title XIII of the Public Health Service Act:

(a) ORS 731.485, if the group practice health maintenance organization wholly owns and operates an in-house drug outlet.

(b) ORS 743A.024, unless the patient is referred by a physician, physician assistant or nurse practitioner associated with a group practice health maintenance organization.

(3) For the purposes of this section, health care service contractors are insurers.

(4) Any for-profit health care service contractor organized under the laws of any other state that is not governed by the insurance laws of the other state is subject to all requirements of ORS chapter 732.

(5)(a) A health care service contractor is a domestic insurance company for the purpose of determining whether the health care service contractor is a debtor, as defined in 11 U.S.C. 109.

(b) A health care service contractor's classification as a domestic insurance company under paragraph (a) of this subsection does not subject the health care service contractor to ORS 734.510 to 734.710.

(6) The Director of the Department of Consumer and Business Services may, after notice and hearing, adopt reasonable rules not inconsistent with this section and ORS 750.003, 750.005, 750.025 and 750.045 that are necessary for the proper administration of these provisions.

NOTE: Deconstructs nonsensical series reference in (1)(i).

SECTION 85. ORS 750.055, as amended by section 21, chapter 771, Oregon Laws 2013, section 7, chapter 25, Oregon Laws 2014, section 82, chapter 45, Oregon Laws 2014, section 9, chapter 59, Oregon Laws 2015, section 7, chapter 100, Oregon Laws 2015, section 7, chapter 224, Oregon Laws 2015, section 11, chapter 362, Oregon Laws 2015, section 10, chapter 470, Oregon Laws 2015, section 30, chapter 515, Oregon Laws 2015, section 10, chapter 206, Oregon Laws 2017, section 6, chapter 417, Oregon Laws 2017, section 22, chapter 479, Oregon Laws 2017, section 10, chapter 7, Oregon Laws 2018, section 69, chapter 13, Oregon Laws 2019, section 38, chapter 151, Oregon Laws 2019, and section 5, chapter 441, Oregon Laws 2019, is amended to read:

750.055. (1) The following provisions apply to health care service contractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

(a) ORS 705.137, 705.138 and 705.139.

(b) ORS 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386, 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.485, as provided in subsection (2) of this section, ORS 731.488, 731.504, 731.508, 731.509, 731.510, 731.511, 731.512, 731.574 to 731.620, 731.640 to 731.652, 731.730, 731.731, 731.735, 731.737, 731.750, 731.752, 731.804, 731.808 and 731.844 to 731.992.

(c) ORS 732.215, 732.220, 732.230, 732.245, 732.250, 732.320, 732.325 and 732.517 to 732.596, not including ORS 732.582.

(d) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695 to 733.780.

(e) ORS 734.014 to 734.440.

(f) ORS 742.001 to 742.009, 742.013, 742.016, 742.061, 742.065, 742.150 to 742.162 and 742.518 to 742.542.

(g) ORS 743.004, 743.005, 743.007, 743.008, 743.010, 743.018, 743.020, 743.022, 743.023, 743.028, 743.029, 743.038, 743.040, 743.044, 743.050, 743.100 to 743.109, 743.402, 743.405, 743.406, 743.417, 743.472, 743.492, 743.495, 743.498, 743.522, 743.523, 743.524, 743.526, 743.535, 743.550, 743.650 to 743.656, 743.680 to 743.689, 743.788 and 743.790.

(h) ORS 743A.010, 743A.012, 743A.014, 743A.020, 743A.034, 743A.036, 743A.040, 743A.044, 743A.048, 743A.051, 743A.052, 743A.058, 743A.060, 743A.062, 743A.063, 743A.064, 743A.065, 743A.066, 743A.068, 743A.070, 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104, 743A.105, 743A.108, 743A.110, 743A.124, 743A.140, 743A.141, 743A.148, 743A.150, 743A.160, 743A.168, 743A.170, 743A.175, 743A.185, 743A.188, 743A.190, 743A.192, 743A.250, 743A.252 and 743A.260.

(i) ORS 743.025, 743B.001, 743B.003 to 743B.127, 743B.128, 743B.130, [743B.195 to 743B.204,] **743B.195, 743B.197, 743B.200, 743B.202, 743B.204**, 743B.220, 743B.222, 743B.225, 743B.227, 743B.250, 743B.252, 743B.253, 743B.254, 743B.255, 743B.256, 743B.257, 743B.258, 743B.280 to 743B.285, 743B.287, 743B.300, 743B.310, 743B.320, 743B.323, 743B.330, 743B.340, 743B.341, 743B.342, 743B.343 to 743B.347, 743B.400, 743B.403, 743B.407, 743B.420, 743B.423, 743B.450, 743B.451, 743B.452, 743B.453, 743B.470, 743B.475, 743B.505, 743B.550, 743B.555, 743B.601, 743B.602 and 743B.800.

(j) The following provisions of ORS chapter 744:

(A) ORS 744.052 to 744.089, 744.091 and 744.093, relating to the regulation of insurance producers;

(B) ORS 744.602 to 744.665, relating to the regulation of insurance consultants; and

(C) ORS 744.700 to 744.740, relating to the regulation of third party administrators.

(k) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610, 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

(2) The following provisions of the Insurance Code apply to health care service contractors except in the case of group practice health maintenance organizations that are federally qualified pursuant to Title XIII of the Public Health Service Act:

(a) ORS 731.485, if the group practice health maintenance organization wholly owns and operates an in-house drug outlet.

(b) ORS 743A.024, unless the patient is referred by a physician, physician assistant or nurse practitioner associated with a group practice health maintenance organization.

(3) For the purposes of this section, health care service contractors are insurers.

(4) Any for-profit health care service contractor organized under the laws of any other state that is not governed by the insurance laws of the other state is subject to all requirements of ORS chapter 732.

(5)(a) A health care service contractor is a domestic insurance company for the purpose of determining whether the health care service contractor is a debtor, as defined in 11 U.S.C. 109.

(b) A health care service contractor's classification as a domestic insurance company under paragraph (a) of this subsection does not subject the health care service contractor to ORS 734.510 to 734.710.

(6) The Director of the Department of Consumer and Business Services may, after notice and hearing, adopt reasonable rules not inconsistent with this section and ORS 750.003, 750.005, 750.025 and 750.045 that are necessary for the proper administration of these provisions.

NOTE: Deconstructs nonsensical series reference in (1)(i).

SECTION 86. ORS 750.333 is amended to read:

750.333. (1) The following provisions apply to trusts carrying out a multiple employer welfare arrangement:

(a) ORS 705.137, 705.138 and 705.139.

(b) ORS 731.004 to 731.150, 731.162, 731.216 to 731.268, 731.296 to 731.316, 731.324, 731.328, 731.378, 731.386, 731.390, 731.398, 731.406, 731.410, 731.414, 731.418 to 731.434, 731.454, 731.484, 731.486, 731.488, 731.512, 731.574 to 731.620, 731.640 to 731.652, 731.804, 731.808 and 731.844 to 731.992.

(c) ORS 733.010 to 733.050, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695 to 733.780.

(d) ORS 734.014 to 734.440.

(e) ORS 742.001 to 742.009, 742.013, 742.016, 742.061 and 742.065.

(f) ORS 743.004, 743.005, 743.007, 743.008, 743.010, 743.018, 743.020, 743.023, 743.028, 743.029, 743.053, 743.405, 743.406, 743.524, 743.526 and 743.535.

(g) ORS 743A.010, 743A.012, 743A.014, 743A.020, 743A.024, 743A.034, 743A.036, 743A.040, 743A.048, 743A.051, 743A.052, 743A.058, 743A.060, 743A.062, 743A.063, 743A.064, 743A.065, 743A.066, 743A.068, 743A.070, 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104, 743A.105, 743A.108, 743A.110, 743A.124, 743A.140, 743A.141, 743A.148, 743A.150, 743A.160, 743A.168, 743A.170, 743A.175, 743A.180, 743A.185, 743A.188, 743A.190, 743A.192, 743A.250, 743A.252 and 743A.260.

(h) ORS 743B.001, 743B.003 to 743B.127 (except 743B.125 to 743B.127), [743B.195 to 743B.204,] **743B.195, 743B.197, 743B.200, 743B.202, 743B.204**, 743B.220, 743B.222, 743B.225, 743B.227, 743B.250, 743B.252, 743B.253, 743B.254, 743B.255, 743B.256, 743B.257, 743B.258, 743B.310, 743B.320, 743B.321, 743B.330, 743B.340, 743B.341, 743B.342, 743B.343, 743B.344, 743B.345, 743B.347, 743B.400, 743B.403, 743B.407, 743B.420, 743B.423, 743B.451, 743B.453, 743B.470, 743B.505, 743B.550, 743B.555 and 743B.601.

(i) The following provisions of ORS chapter 744:

(A) ORS 744.052 to 744.089, 744.091 and 744.093, relating to the regulation of insurance producers;

(B) ORS 744.602 to 744.665, relating to the regulation of insurance consultants; and

(C) ORS 744.700 to 744.740, relating to the regulation of third party administrators.

(j) ORS 746.005 to 746.140, 746.160 and 746.220 to 746.370.

(2) For the purposes of this section:

(a) A trust carrying out a multiple employer welfare arrangement is an insurer.

(b) References to certificates of authority are references to certificates of multiple employer welfare arrangement.

(c) Contributions are premiums.

(3) The provision of health benefits under ORS 750.301 to 750.341 is the transaction of health insurance.

(4) The Department of Consumer and Business Services may adopt rules that are necessary to implement the provisions of ORS 750.301 to 750.341.

NOTE: Deconstructs nonsensical series reference in (1)(h).

SECTION 87. ORS 807.066 is amended to read:

807.066. (1) Subject to subsection (2) of this section, the Department of Transportation may not issue driving privileges to a person who is under 18 years of age unless:

(a) The person has graduated from high school and provides the department with proof of graduation satisfactory to the department;

(b) The person has received a certificate for passing an approved high school equivalency test, such as the General Educational Development (GED) test, from a community college and provides the department with proof of the certificate satisfactory to the department; or

(c) The person's parent or legal guardian certifies that the person is:

(A) Enrolled in a school of this state, or any other state or any other country;

(B) Enrolled in a community college and making satisfactory progress toward a certificate for passing an approved high school equivalency test, such as the General Educational Development (GED) test, a high school diploma or a modified diploma;

(C) Being taught by a private teacher, legal guardian or parent in compliance with ORS 339.035;

(D) Exempted from school attendance requirements due to circumstances beyond the control of the person; or

(E) Exempt under ORS 339.030 (2) from the requirement to attend school.

(2) The department may not issue driving privileges to a person who is under 18 years of age and whose driving privileges are suspended [under ORS 809.423 (2)] for withdrawing from school unless the person:

(a) Has graduated from high school and provides the department with proof of graduation satisfactory to the department;

(b) Has received a certificate for passing an approved high school equivalency test, such as the General Educational Development (GED) test, from a community college and provides the department with proof of the certificate satisfactory to the department;

(c) Provides the department with a form provided by the department and signed by the principal, or the designee of the principal, of the school attended by the person that declares that the person is enrolled in a school of this state, or any other state or any other country;

(d) Provides the department with a form provided by the department and signed by the authorized representative of the community college attended by the person that declares that the person is making satisfactory progress toward a certificate for passing an approved high school equivalency test such as the General Educational Development (GED) test;

(e) Provides the department with a form provided by the department and signed by the authorized representative of the community college attended by the person that declares that the person is making satisfactory progress toward a high school diploma or a modified diploma;

(f) Provides the department with a form provided by the department and signed by the authorized representative of the education service district or school district having jurisdiction over the area of the person's residence that declares that the person is being taught by a private teacher, legal guardian or parent in compliance with ORS 339.035;

(g) Provides the department with documentation satisfactory to the department that indicates that the person is exempted from school attendance requirements due to circumstances beyond the control of the person; or

(h) Provides the department with documentation satisfactory to the department that the person is exempt under ORS 339.030 (2) from the requirement to attend school.

NOTE: Deletes reference to repealed statute in (2).

Passed by House April 1, 2021

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 14, 2021

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2021

Approved:

.....M.,....., 2021

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2021

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Shemia Fagan, Secretary of State