PROPOSED AMENDMENTS TO
HOUSE BILL 3065


Delete lines 4 through 9 and insert:

“TRANSPORTATION PROJECTS

SECTION 1. ORS 367.095 is amended to read:

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

“(a) The amount attributable to the increase in tax rates by section 45, chapter 750, Oregon Laws 2017, and the amendments to ORS 319.020 and 319.530 by sections 40 to 43, chapter 750, Oregon Laws 2017.

“(b) The amount attributable to the vehicle registration and title fees imposed under ORS 803.091 and 803.422.

“(c) The amount attributable to the increase in taxes and fees by the amendments to ORS 803.420, 803.645, 818.225, 818.270, 825.476, 825.480 and 826.023 by sections 34, 35, 48, 49, 51, 52, 54, 63, 64, 66, 67 and 70, chapter 750,

“(2) The amounts described in subsection (1) of this section shall be distributed in the following order and for the following purposes:

“(a)(A) For calendar years beginning on or after January 1, 2022, $30 million per year shall be used to pay for [the Interstate 5 Rose Quarter Project]:

“(i) Interstate highway projects that are partially funded with toll revenues, are located on interstate highways within the region where toll revenues are generated and are of statewide significance;

“(ii) The implementation of the toll program established under ORS 383.150;

“(iii) The department’s costs related to the jurisdictional transfer of 82nd Avenue from the Department of Transportation to the City of Portland not to exceed the amounts described under ORS 366.483 (1)(c).

“(B) [This] The amount described in subparagraph (A) of this paragraph shall be used to pay for [the Interstate 5 Rose Quarter Project,] costs, including project costs on a current basis and paying for debt service on bonds issued to finance the [project] projects, jurisdictional transfer or toll program, only until the later of the date on which the [project] projects or jurisdictional transfer is completed or on which all bonds issued to fund the [project] projects, jurisdictional transfer or toll program have been repaid. Any remaining moneys shall be distributed as described in subsection (3) of this section.

“(b) $10 million per year shall be deposited into the Safe Routes to Schools Fund for the purpose of providing Safe Routes to Schools matching grants under ORS 184.742. The remainder of the moneys shall be distributed as described in subsection (3) of this section.

“(3) The moneys described in subsection (1) of this section that remain after the allocation of moneys described in subsection (2) of this section shall
be allocated as follows:

“(a) 50 percent to the Department of Transportation.
“(b) 30 percent to counties for distribution as provided in ORS 366.762.
“(c) 20 percent to cities for distribution as provided in ORS 366.800.
“(4) The moneys described in subsection (3)(a) of this section or equivalent amounts that become available to the Department of Transportation shall be allocated as follows:
“(a) $10 million for safety.
“(b) Of the remaining balance:
“(A) Forty percent for bridges.
“(B) Thirty percent for seismic improvements related to highways and bridges.
“(C) Twenty-four percent for state highway pavement preservation and culverts.
“(D) Six percent for state highway maintenance and safety improvements.
“(5) For the purposes of this section, the regions are as follows:
“(a) Region one consists of Clackamas, Hood River, Multnomah and Washington Counties.
“(b) Region two consists of Benton, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Polk, Tillamook and Yamhill Counties.
“(c) Region three consists of Coos, Curry, Douglas, Jackson and Josephine Counties.
“(d) Region four consists of Crook, Deschutes, Gilliam, Jefferson, Klamath, Lake, Sherman, Wasco and Wheeler Counties.
“(e) Region five consists of Baker, Grant, Harney, Malheur, Morrow, Umatilla, Union and Wallowa Counties.

**SECTION 2.** ORS 367.095, as amended by section 47, chapter 491, Oregon Laws 2019, is amended to read:

“367.095. (1) The following amounts shall be distributed in the manner prescribed in this section:
“(a) The amount attributable to the increase in tax rates by section 45, chapter 750, Oregon Laws 2017, and the amendments to ORS 319.020 and 319.530 by sections 40 to 43, chapter 750, Oregon Laws 2017.

“(b) The amount attributable to the vehicle registration and title fees imposed under ORS 803.091 and 803.422.

“(c) The amount attributable to the increase in taxes and fees by the amendments to ORS 803.420, 803.645, 818.225, 825.476, 825.480 and 826.023 by sections 34, 35, 48, 49, 51, 52, 63, 64, 66, 67 and 70, chapter 750, Oregon Laws 2017.

“(2) The amounts described in subsection (1) of this section shall be distributed in the following order and for the following purposes:

“(a)(A) $30 million per year shall be used to pay for [the Interstate 5 Rose Quarter Project]:

“(i) Interstate highway projects that are partially funded with toll revenues, are located on interstate highways within the region where toll revenues are generated and are of statewide significance;

“(ii) The implementation of the toll program established under ORS 383.150; and

“(iii) The department’s costs related to the jurisdictional transfer of 82nd Avenue from the Department of Transportation to the City of Portland not to exceed the amounts described under ORS 366.483 (1)(c).

“(B) [This] The amount described in subparagraph (A) of this paragraph shall be used to pay for [the Interstate 5 Rose Quarter Project] costs, including project costs on a current basis and paying for debt service on bonds issued to finance the [project] projects, jurisdictional transfer or toll program, only until the later of the date on which the [project] projects, jurisdictional transfer or toll program is completed or on which all bonds issued to fund the [project] projects, jurisdictional transfer or toll program have been repaid. Any remaining moneys shall be distributed
as described in subsection (3) of this section.

“(b) $15 million per year shall be deposited into the Safe Routes to Schools Fund for the purpose of providing Safe Routes to Schools matching grants under ORS 184.742. The remainder of the moneys shall be distributed as described in subsection (3) of this section.

“(3) The moneys described in subsection (1) of this section that remain after the allocation of moneys described in subsection (2) of this section shall be allocated as follows:

“(a) 50 percent to the Department of Transportation.

“(b) 30 percent to counties for distribution as provided in ORS 366.762.

“(c) 20 percent to cities for distribution as provided in ORS 366.800.

“(4) The moneys described in subsection (3)(a) of this section or equivalent amounts that become available to the Department of Transportation shall be allocated as follows:

“(a) $10 million for safety.

“(b) Of the remaining balance:

“(A) Forty percent for bridges.

“(B) Thirty percent for seismic improvements related to highways and bridges.

“(C) Twenty-four percent for state highway pavement preservation and culverts.

“(D) Six percent for state highway maintenance and safety improvements.

“(5) For the purposes of this section, the regions are as follows:

“(a) Region one consists of Clackamas, Hood River, Multnomah and Washington Counties.

“(b) Region two consists of Benton, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Polk, Tillamook and Yamhill Counties.

“(c) Region three consists of Coos, Curry, Douglas, Jackson and Josephine Counties.

“(d) Region four consists of Crook, Deschutes, Gilliam, Jefferson,
Klamath, Lake, Sherman, Wasco and Wheeler Counties.

“(e) Region five consists of Baker, Grant, Harney, Malheur, Morrow, Umatilla, Union and Wallowa Counties.

“SHORT-TERM BORROWING

SECTION 3. ORS 367.105 is amended to read:

"367.105. (1) In addition to the authority for short-term borrowing granted in ORS 286A.025 (2)(d) and 286A.045, the Department of Transportation, acting through the State Treasurer, may borrow money by entering into a credit agreement, a line of credit or a revolving line of credit, or by issuing a note, a warrant, a short-term promissory note, commercial paper or another similar obligation, for the following purposes:

(a) Providing matching funds as set forth in ORS 366.564.

(b) Providing funds with which to pay when due the principal or interest of bonded indebtedness created for highway purposes, the payment of which is necessary to preserve the financial credit of the state.

(c) Meeting emergencies.

(d) Providing funds for use by the department during times when expenditures exceed revenues, whether or not the department anticipated that expenditures would exceed revenues.

(e) Providing funds for the payment of current expenses in anticipation of revenue, grants or other moneys intended for payment of the current expenses.

(f) Providing funds for interim financing of a capital asset or project to be undertaken by the department.

(g) Refunding an outstanding obligation.

(2) Short-term borrowing under this section may be in such denominations or for such sums as the department fixes and may draw interest at a negotiated rate."
“(3) The total outstanding indebtedness created by the short-term borrowing under this section may not exceed $100 million in outstanding principal amount.

“(3) The State Treasurer may issue refunding revenue bonds to refund outstanding short-term borrowing obligations issued under this section. The limitations described in subsection (4) of this section do not apply to this subsection.

“(4) Except as provided in subsection (3) of this section, all short-term borrowing issued pursuant to this section shall mature within three years from the date of issuance.

“(5) The department shall pay for and secure short-term borrowing and any refunding revenue bonds issued under this section with funds from the State Highway Fund or other funds that are legally available to the department for the purposes for which the moneys were borrowed, including moneys received by the department from the United States government. ORS 286A.035 does not apply to borrowings, including refunding revenue bonds, issued under this section.

“TOLLING

“SECTION 4. ORS 383.001 is added to and made a part of ORS 383.003 to 383.075.

“SECTION 4a. ORS 383.001 is amended to read:

“383.001. The Legislative Assembly finds that:

“(1) The development, improvement, expansion and maintenance of an efficient, safe and well-maintained system of roads, highways and other transportation facilities is essential to the economic well-being and high quality of life of the people of this state.

“(2) Public sources of revenues, including federal funding, to provide an efficient transportation system have not kept pace with the state’s growing
population and growing transportation needs, and all available alternative
sources of funding should be utilized to supplement available public sources
of revenues.

“(3) Because public funding sources are not providing the state with suffi-
cient funds to meet all of its transportation needs, private funding should
be encouraged as an additional source of funding for transportation projects
and facilities.

“(4) Various alternatives for utilizing the funds of private entities in the
acquisition, design, construction, reconstruction, operation and maintenance
of transportation facilities exist, including arrangements whereby private
entities obtain exclusive agreements to design, build, own, lease or operate
with private funds all or a portion of transportation projects and facilities
in exchange for the right to receive certain revenues generated from the
operation and utilization of such transportation projects and facilities.

“(5) Another important alternative for the funding of transportation fa-
cilities is the use of federal funds pursuant to 23 U.S.C. 129(a), as amended
by section 112 of the Intermodal Surface Transportation Efficiency Act of
1991, which established a program authorizing federal participation in con-
struction of publicly or privately owned toll highways, bridges and tunnels.

“(6) The federal legislation allows for a mix of federal funding and private
funding of transportation facilities, allowing the states to leverage available
federal funds as a means for attracting private capital.

“(7) Legislation for the utilization of private funding of transportation
facilities should be flexible enough to permit the Department of Transporta-
tion to obtain the advantages of any available alternative under which the
acquisition, design, construction, reconstruction, operation, maintenance and
repair of transportation facilities can be financed in whole or in part or in
combination by any available sources of private or public funding.

“(8) The funding of transportation facilities through the imposition of
tolls on those who use such facilities is a fair and impartial means of as-
sessing the costs of improvements against those who most benefit from such improvements, and is consistent with public policy.

“(9) Joint endeavors of public and private entities do the following:

“(a) Take advantage of private sector efficiencies in designing, constructing and operating transportation projects.

“(b) Allow for the rapid formation of capital necessary for funding transportation projects.

“(c) Require continued compliance with environmental requirements and applicable state and federal laws that all publicly financed projects must address.

“(10) Significant traffic congestion adversely impacts Oregon’s economy and the quality of life of Oregon’s communities. Where appropriate, the selective use of tolling may help reduce traffic congestion and support the state’s greenhouse gas emissions reduction goals.

“SECTION 4b. ORS 383.003 is amended to read:

“383.003. As used in ORS 383.003 to 383.075:

“(1) ‘Department’ means the Department of Transportation.

“[(2) ‘Electronic toll collection system’ means a system for collecting tolls that:

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

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

“(4) (3) ‘Private entity’ means any nongovernmental entity, including a corporation, partnership, company or other legal entity, or any natural person.

“(5) (4) ‘Related facility’ means any real or personal property that:

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

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

“(c) Will generate revenue that may be used to reduce tolls or will be deposited in the [State Tollway Account] Toll Program Fund.

“(6) (5) ‘Toll’ means any fee or charge for the use of a tollway.

“(7) ‘Toll booth collections’ means the manual or mechanical collection of cash or charging of an account at a toll plaza, toll booth or similar fixed toll collection facility.

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

“(9) (7) ‘Tollway operator’ means the unit of government or the private entity that is responsible for all or any portion of the construction, reconstruction, [installation,] improvement, financing, maintenance, repair and operation of a tollway or a related facility.

“(10) (8) ‘Tollway project’ means any capital project involving the [acquisition of land for, or the construction, reconstruction, improvement, installation,] development, operation or equipping of[,] a tollway, related facilities
or any portion thereof.

“(9) ‘Tollway project revenue bonds’ means revenue bonds designated as tollway project revenue bonds under section 17 of this 2021 Act.

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

“SECTION 5. ORS 383.004 is amended to read:

“383.004. (1) Except as provided in subsection (2) of this section, a toll may not be established unless the Oregon Transportation Commission has reviewed and approved the toll. The commission shall adopt rules specifying the process under which proposals to establish tolls will be reviewed. When reviewing a proposal to establish tolls, the commission shall take into consideration:

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

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

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

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

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

“(f) The amount of indebtedness incurred for the construction of the
tollway and all expenses and obligations related to the indebtedness
including, without limitation, financial covenants, debt service require-
ments, reserve requirements and any other funding requirements es-
established under the terms of any indenture prepared under section 20
of this 2021 Act and any other contracts establishing the terms of the
indebtedness, if any;
“(g) The value of assets, equipment and services required for the opera-
tion of the tollway;
“(h) The period of time during which the toll will be in effect;
“(i) The process for altering the amount of the toll during the period of
operation of the tollway;
“(j) The method of collecting the toll; and
“(k) The rate of return that would be fair and reasonable for a private
equity holder, if any, in the tollway.
“(2)(a) Nothing in ORS 383.003 to 383.075 prohibits a city or county from
establishing a toll on any highway, as defined in ORS 801.305, that the city
or county has jurisdiction over as a road authority pursuant to ORS 810.010.
“(b) Nothing in ORS 383.003 to 383.075 prohibits Multnomah County from
establishing a toll on the bridges across the Willamette River that are within
the boundaries of the City of Portland and that are operated and maintained
by Multnomah County as required under ORS 382.305 and 382.310.
“SECTION 6. ORS 383.009 is amended to read:
“383.009. (1) There is hereby established the [State Tollway Account] Toll
Program Fund as a separate [account] and distinct fund [within] from the
Program Fund shall consist of:
“(a) All moneys and revenues received by the Department of Transporta-
tion from or made available by the federal government to the department for
any tollway project or for the operation or maintenance of any tollway;
“(b) Any moneys received by the department from any other unit of gov-
ernment or any private entity for a tollway project or from the operation or maintenance of any tollway;

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

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

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

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

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

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

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

“(j) Fees paid to the department for information provided under ORS 383.075;

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

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

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

“(a) To finance preliminary studies and reports for any tollway project;
“(b) To acquire land to be owned by the state for tollways and any related facilities therefor;
“(c) To finance the construction, renovation, operation, improvement, maintenance or repair of any tollway project;
“(d) To make grants or loans to a unit of government for tollway projects;
“(e) To make loans to private entities for tollway projects;
“(f) To pay the principal, interest and premium due with respect to, and to pay the costs connected with the issuance or ongoing administration of, any bonds or other financial obligations authorized to be issued by, or the proceeds of which are received by, the department for any tollway project, including capitalized interest and any rebates or penalties due to the United States in connection with the bonds;
“(g) To provide a guaranty or other security for any bonds or other financial obligations, including but not limited to financial obligations with respect to any bond insurance, surety or credit enhancement device issued or incurred by the department, a unit of government or a private entity, for the purpose of financing a single tollway project or any related group or system of [tollways] tollway projects or related facilities; [and]
“(h) To pay the costs incurred by the department in connection with its oversight, operation and administration of the [State Tollway Account] Toll Program Fund, the proposals and projects submitted under ORS 383.015 and the tollway projects financed under ORS 383.005[.]; and
“(i) To develop, implement and administer the toll program established under ORS 383.150, including the cost of consultants, advisors, attorneys or other professional service providers appointed, retained or approved by the department.
“(3) For purposes of paying or securing bonds or providing a guaranty, surety or other security authorized by [subsection (2)(g) of] this section, the
department may:

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

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

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

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

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

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

“SECTION 7. The Toll Program Fund is a continuation of the State Tollway Account. Moneys contained in the State Tollway Account on the effective date of this 2021 Act are considered to be moneys in the Toll Program Fund.
“SECTION 8. ORS 383.155 is repealed.

“SECTION 9. (1) The Congestion Relief Fund, established under ORS 383.155, is abolished.

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

“SECTION 10. ORS 383.014 is amended to read:

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

“SECTION 11. ORS 383.017 is amended to read:

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

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

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

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

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

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

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

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

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

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

“[(d) The experience of the proposer and its subcontractors in building and
operating projects such as the tollway project.]

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

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

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

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

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

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

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

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

“SECTION 12. ORS 383.035 is amended to read:

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

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

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

“(2) (4) In addition to any other penalty, the department shall refuse to renew the motor vehicle registration of a motor vehicle owned by a person who, when the registered owner of the motor vehicle has not paid the toll, the civil penalty and any administrative fee charged under this section.

“(3) (5) This section does not apply to:

“[(a) A person operating a vehicle owned by a unit of government or the
“[(b)] (a) A person who is a member of a category of persons exempted by the Oregon Transportation Commission from paying a toll; or
“[(c)] (b) A person who is a member of a category of persons made eligible by the commission for paying a reduced toll, to the extent of the reduction.
“(4) Subsection (1) of this section does not apply to a person who fails to pay a toll established under section 8, chapter 4, Oregon Laws 2013.
“(5)(a) Upon receiving a request from the State of Washington, or from the State of Washington’s designee that has contracted with the State of Washington to collect tolls, the department shall provide information to identify registered owners of vehicles who fail to pay a toll established under section 8, chapter 4, Oregon Laws 2013.
“(b) If the State of Washington, or the State of Washington’s designee that has contracted with the State of Washington to collect tolls, gives notice to the department that a person has not paid a toll established under section 8, chapter 4, Oregon Laws 2013, or a civil penalty or administrative fee imposed by reason of failure to pay the toll, the department shall refuse to renew the Oregon motor vehicle registration of the motor vehicle operated by the person at the time of the violation.
“(c) The department may renew an Oregon motor vehicle registration of a person described in paragraph (b) of this subsection upon receipt of a notice from the State of Washington, or from the State of Washington’s designee, indicating that all tolls, civil penalties and other administrative fees owed by the person have been paid.
“(6) Civil penalties imposed under this section shall be imposed in the manner provided by ORS 183.745.

“SECTION 13. ORS 383.045 is amended to read:
“383.045. (1) A recorded image produced by an electronic toll collection system shall capture only images of a vehicle and the license plate of the vehicle.
“[(1)] (2) Except as provided in subsection [(2)] (3) of this section, a recorded image of a vehicle and the [registration] license plate of the vehicle produced by [a photo enforcement] an electronic toll collection system at the time the driver of the vehicle did not pay a toll shall be prima facie evidence that the registered owner of the vehicle is the driver of the vehicle.

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

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

“SECTION 14. ORS 383.075 is amended to read:

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

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

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

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

“(c) Employees of the department;

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

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

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

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

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

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

“(b) Employees of the department;

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

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

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

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

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

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

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

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

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

“SECTION 15. ORS 383.150 and sections 17 to 22 of this 2021 Act are added to and made a part of ORS 383.003 to 383.075.

“SECTION 16. ORS 383.150 is amended to read:

“383.150. (1) The Oregon Transportation Commission shall establish a [traffic congestion relief program] toll program.
"[2] No later than December 31, 2018, the commission shall seek approval from the Federal Highway Administration, if required by federal law, to implement value pricing as described in this section.

"[3] (2) As part of the toll program, after seeking and receiving approval from the Federal Highway Administration, the commission [shall implement value pricing to reduce traffic congestion] may assess tolls. [Value pricing] Tolling may include, but is not limited to assessing tolls for the purpose of:[, variable time-of-day pricing.]

"(a) Managing congestion; and

"(b) Partially or wholly funding the construction, operation or maintenance of a highway, as defined in ORS 366.005.

"(3) The commission shall [implement value pricing] assess tolls in the following locations:

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

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

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

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

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

"[7] (4) Before [imposing value pricing] assessing tolls in the locations
described under subsection (3) of this section, the commission shall report to the Joint Committee on Transportation established under ORS 171.858.

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

“SECTION 17. Revenue bonds for tollway projects. (1) In accordance with the applicable provisions of ORS chapter 286A, the State Treasurer, at the request of the Department of Transportation, may issue and sell revenue bonds known as tollway project revenue bonds for the purpose of financing tollway projects, provided that such bonds do not constitute a debt or general obligation of the department or of this state or any of its political subdivisions, but shall be payable solely from the revenues, amounts, funds and accounts described in ORS 383.009 and sections 18 and 21 of this 2021 Act.

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

“(a) Financing any portion of the costs related to the purposes described in ORS 383.009 (2);

“(b) Funding any required reserves; and

“(c) Paying costs of issuing the bonds.

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

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

“(5) Subject to the limitations under ORS 383.004 and 383.009, when
issuing bonds under this section, the department and the State Treasurer may make covenants with bondholders regarding the imposition and regulation of tolls to meet the department’s obligations under the terms of any indenture prepared under section 20 of this 2021 Act, any loan agreement and any grant agreement, including without limitation:

“(a) Financial covenants, debt service requirements, reserve requirements and any other funding requirements;

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

“(c) The issuance of additional bonds.

“(6) The state may not in any way impair obligations of any agreement between the state and holders of tollway project revenue bonds issued under this section.

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

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

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

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

“(b) From additional revenue sources as permitted under section 18 of this 2021 Act.

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

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

“SECTION 18. Sources of funds to secure revenue bonds for tollway projects. (1) Moneys deposited in the Toll Program Fund established under ORS 383.009 are pledged to the payment of tollway project revenue bonds issued under section 17 of this 2021 Act.

“(2) The Department of Transportation, with the approval of the State Treasurer, may designate in any revenue declaration or indenture prepared under section 20 of this 2021 Act additional revenues as security for the payment of tollway project revenue bonds. The department shall set the order of priority for the additional revenues used. Additional revenues may include:

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

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

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

“(3) The lien or charge of any pledge of moneys in the Toll Program Fund to secure bonds designated as tollway project revenue bonds under section 17 of this 2021 Act is superior or prior to any other lien or charge and to any law of the state requiring the department to spend moneys for tollway project revenue projects. As long as any tollway project revenue bonds issued under section 17 of this 2021 Act are outstanding, moneys deposited to the Toll Program Fund shall be applied first to the payment of principal of, and interest on, any bonds designated as tollway project revenue bonds under section 17 of this 2021 Act and then to any other purposes described under ORS 383.009.

“SECTION 19. Collection and use of federal transportation funds. (1) If allowed by federal law, the Department of Transportation may
use federal transportation funds for the following purposes:

“(a) For deposit into one or more special funds or accounts that may be pledged to secure payment of the tollway project revenue bonds issued under section 17 of this 2021 Act.

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

“(c) For reimbursement to the department of moneys previously spent on tollway projects.

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

“SECTION 20. Revenue declaration or indenture; contents; purpose.

(1) Before tollway project revenue bonds are issued under section 17 of this 2021 Act, the Department of Transportation must prepare a revenue declaration or indenture authorizing issuance of the bonds. The revenue declaration or indenture must be signed by the Director of Transportation or a person designated by the director and must be approved by the State Treasurer or a person designated by the State Treasurer.

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

“(a) Pledge any part or all of moneys described under section 18 of this 2021 Act for purposes of the bonds to be issued.

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

“(c) Make pledges concerning the proceeds of the sale or moneys described under section 18 of this 2021 Act as necessary to secure payment of bonds of the department.

“(d) Limit or establish terms upon which additional bonds or refunding bonds may be issued under section 17 of this 2021 Act.
“(e) Provide for procedures, if any, by which the terms of contracts with bondholders may be amended or rescinded, for the percentage of the bondholders that must consent to amendment or rescission of the contract and for the manner of bondholder consent to any amendment or rescission of the contract.

“(f) Establish a trustee and vest the trustee with property, rights, powers and duties in trust, as the State Treasurer determines appropriate.

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

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

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

“SECTION 21. Reserve account. (1) The Department of Transportation may establish one or more separate reserve accounts within, or separate and distinct from, the Toll Program Fund in connection with the issuance of tollway project revenue bonds issued under section 17 of this 2021 Act.

“(2) The moneys held in any account established under this section may be subject to the provisions of any revenue declaration or indenture prepared under section 20 of this 2021 Act.

“SECTION 22. Bond form, issuance and maturity; provisions subject to determination of State Treasurer. (1) A tollway project revenue bond issued under section 17 of this 2021 Act:

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

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

“(c) Must mature on or before a date determined by calculation of the expected economic life of the improvements, assets and projects financed with the proceeds of the bond.
“(2) The State Treasurer shall determine, after consultation with the Department of Transportation, all aspects relating to the sale of bonds under section 17 of this 2021 Act that are not otherwise specifically provided in sections 17 to 22 of this 2021 Act.

“SECTION 23. ORS 383.006, 383.013, 383.023 and 383.065 are repealed.

“FINANCING FOR TOLLWAY PROJECTS

“SECTION 24. ORS 367.010 is amended to read:

“367.010. As used in this chapter:

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

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

“(3) ‘Bond debt service’ means payment of:

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

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

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

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

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

“(5) ‘Financial institution’ means a banking institution, a financial institution or a non-Oregon institution, as those terms are defined in ORS 706.008, and any other institution defined by rule of the Oregon Transportation Commission as a financial institution for purposes of ORS 367.010 to
“(6) ‘Infrastructure assistance’ means any use of moneys in the Oregon Transportation Infrastructure Fund, other than an infrastructure loan, to provide financial assistance for transportation projects. The term includes, but is not limited to, use of moneys in the infrastructure fund to finance leases, fund reserves, make grants, pay issuance costs or provide credit enhancement or other security for bonds issued by a public entity to finance transportation projects.

“(7) ‘Infrastructure bonds’ means bonds authorized by ORS 367.030, 367.555 to 367.600 or 367.605 to 367.665 that are issued to fund infrastructure loans and the proceeds of which are deposited in the infrastructure fund.

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

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

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

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

“SECTION 25. ORS 367.555 is amended to read:

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

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

“SECTION 26. ORS 367.560 is amended to read:

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

“SECTION 27. ORS 367.615 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“CONFORMING AMENDMENTS RELATED TO TOLLING

“SECTION 28. ORS 366.505 is amended to read:

“366.505. (1) Except as provided in ORS 383.009, the State Highway Fund shall consist of:

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

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

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

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

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

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

“(g) All moneys and revenues received from all other sources which by law are allocated or dedicated for highway purposes.
“(2) The State Highway Fund shall be deemed and held as a trust fund, separate and distinct from the General Fund, and may be used only for the purposes authorized by law and is continually appropriated for such purposes.

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

**SECTION 29.** ORS 367.806 is amended to read:

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

“(a) Enter into any agreement or any configuration of agreements relating to transportation projects with any private entity or unit of government or any configuration of private entities and units of government. The subject of agreements entered into under this section may include, but need not be limited to, planning, acquisition, financing, development, design, construction, reconstruction, replacement, improvement, maintenance, management, repair, leasing and operation of transportation projects.

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

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

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

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

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

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

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

“(e) The penalties for nonperformance;

“(f) The incentives for performance;

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

“(h) Whether the project is consistent with the plan developed by the Oregon Transportation Commission under ORS 184.617 and any applicable regional transportation plans or local transportation system programs and, if not consistent, how and when the project will become consistent with applicable plans and programs.

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

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

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

“(7)(a) The department may not enter into an agreement under this sec-
tion until the agreement is reviewed and approved by the Oregon Transpor-
tation Commission.

“(b) The department may not enter into, and the commission may not
approve, an agreement under this section for the construction of a public
improvement as part of a transportation project unless the agreement pro-
vides for bonding, financial guarantees, deposits or the posting of other se-
curity to secure the payment of laborers, subcontractors and suppliers who
perform work or provide materials as part of the project.

“(c) Before presenting an agreement to the commission for approval under
this subsection, the department must consider whether to implement proce-
dures to promote competition among subcontractors for any subcontracts to
be let in connection with the transportation project. As part of its request
for approval of the agreement, the department shall report in writing to the
commission its conclusions regarding the appropriateness of implementing
such procedures.

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

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

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

“(10) As used in this section:
“(a) ‘Public improvement’ has the meaning given that term in ORS
279A.010.

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

“SECTION 30. ORS 367.816 is amended to read:

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

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

“SECTION 31. ORS 381.312 is amended to read:

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

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

“(3)(a) The Department of Transportation, on behalf of the port, shall:
“(A) Assess and collect the amount of a toll that a person fails to pay, plus a civil penalty and administrative fee; and
“(B) Refuse to renew the motor vehicle registration of the motor vehicle of a person that failed to pay a toll, a civil penalty or an administrative fee assessed under this subsection.

“(b) For the purpose of conducting the activities described in paragraph (a) of this subsection, the department shall:
“(A) Treat a toll established in connection with the bridge as a toll that was established under ORS 383.004;
“(B) Apply the exemptions set forth in ORS 383.035 [(3)] (5); and
“(C) Adopt rules to establish a process by means of which the port, a private entity or a unit of government may request action from the department under this subsection.

SECTION 32. ORS 383.015 is amended to read:

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

“(2) The department shall adopt rules pursuant to which it will consider authorization of a tollway project. The rules shall require consideration of:
“(a) The opinions and interests of units of government encompassing or adjacent to the path of the proposed tollway project in having the tollway installed;

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

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

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

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

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

“(B) Traffic congestion and economic conditions in the communities that will be affected by competing tollway projects; and

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

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

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

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

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

“REPORT ON EQUITABLE INCOME-BASED TOLL RATES

“SECTION 33. (1) As used in this section, ‘toll’ and ‘tollway’ have
the meanings given those terms in ORS 383.003.

“(2) Before the Department of Transportation assesses a toll, the
department shall implement a method for establishing equitable
income-based toll rates to be paid by users of tollways.

“(3) At least 90 days before the date the Oregon Transportation
Commission seeks approval from the Federal Highway Administration
to use the income-based toll rates developed under subsection (1) of
this section, the department shall prepare and submit a report on the
method developed to the Joint Committee on Transportation and the
Oregon Transportation Commission. The department may also submit
to the Joint Committee on Transportation any recommended legisla-
tive changes. The report shall be provided to the Joint Committee on
Transportation, in the manner provided under ORS 192.245, on or be-
fore September 15, 2022.
“SECTION 34. Section 33 of this 2021 Act is repealed on January 2, 2023.

“JURISDICTIONAL TRANSFER

“SECTION 35. ORS 366.483 is amended to read:

“366.483. (1) In accordance with ORS 374.329, the Department of Transportation shall transfer jurisdiction of the following state highways to the following cities:

“(a) Pacific Highway West, State Highway 99, from the department to the City of Eugene. The department shall transfer the following two portions:

“(A) The portion beginning where the highway intersects with the Beltline Highway and ending where the highway intersects with Washington Street, but excluding the bridge at milepost 121.42.

“(B) The portion beginning where the highway intersects with Walnut Street and ending where the highway intersects with Interstate 5, but excluding the bridge at milepost 126.02.

“(b) Springfield Highway, State Highway 228 to the City of Springfield.

“(c) To the City of Portland, the portion of 82nd Avenue beginning where it intersects with Northeast Killingsworth Street and ending where the highway intersects with Southeast Clatsop Street. Before the transfer:

“(A) The department shall determine the total costs to improve the portion of 82nd Avenue described in this paragraph to a state of good repair;

“(B) The department shall provide the city 25 percent of the costs; and

“(C) The city shall cover the remaining 75 percent of the costs.

“(2) Notwithstanding section 71d (4), chapter 750, Oregon Laws 2017, the department shall use the funds described in section 71d, chapter 750, Oregon
Laws 2017, for the transfer of Powell Boulevard to upgrade the portion of Southeast Powell Boulevard beginning where the highway intersects with Interstate 205 and ending where the highway intersects with the city limits. After the upgrades are completed, in accordance with ORS 374.329, the department shall transfer jurisdiction of the upgraded portion to the City of Portland. The department may upgrade and transfer portions of the highway in phases.

“(3) In accordance with ORS 366.290:

“(a) The department shall transfer jurisdiction of the portion of Territorial Highway, State Highway 200, that is located within Lane County from the department to the county. The department may transfer portions of the highway in phases. The department shall retain jurisdiction of bridges on Territorial Highway located at milepoints 4.59, 7.07, 17.92, 18.72, 18.98, 19.28 and 25.49. The department shall transfer the jurisdiction of the bridges after the bridges are replaced.

“(b) The department shall transfer jurisdiction of the portion of the Springfield-Creswell Highway, State Highway 222, beginning where it intersects with Jasper-Lowell Road and ending where it intersects with Emerald Parkway to Lane County. The department shall retain jurisdiction of bridges on Springfield-Creswell Highway located at mileposts 5.20, 5.41, 5.64 and 13.36. The department shall transfer the jurisdiction of a bridge after the bridge is replaced.

“(c) Lane County shall transfer jurisdiction of the portion of Delta Highway beginning where the highway intersects with Interstate 105 and ending where the highway intersects with the Randy Pape Beltline from the county to the department.

“(d) Multnomah County and Washington County shall transfer jurisdiction of the portion of Cornelius Pass Road beginning where the highway intersects with U.S. Highway 30 and ending where the highway intersects with U.S. Highway 26 from the counties to the department. The counties may
transfer portions of the highway in phases.

“(4) The amounts described in this section for jurisdiction transfers authorized under this section may not be allocated until after the transfer for which the allocation is dedicated occurs.

“PROJECT LABOR AGREEMENTS

“SECTION 36. (1) As used in this section:
“(a) ‘Apprentice’ has the meaning given that term in ORS 660.010.
“(b) ‘Apprenticeable occupation’ has the meaning given that term in ORS 660.010.
“(c) ‘General contractor’ has the meaning given that term in ORS 701.005.
“(d) ‘Project labor agreement’ means a collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project.
“(e) ‘Training agent’ has the meaning given that term in ORS 660.010.
“(2) The Director of Transportation shall apply the considerations specified in subsection (3) of this section to objectively and specifically determine whether a project labor agreement is appropriate for each of the interstate highway projects described in ORS 367.095 (2)(a)(A)(i).
“(3) In making the determination described in subsection (2) of this section, the director shall consider:
“(a) Whether a project labor agreement will secure a skilled and diverse workforce for the project;
“(b) Whether a single project labor agreement for all of the projects described in subsection (2) of this section is feasible and beneficial and whether the project subject to the director’s determination could be included within or adapted to the terms and conditions of a project
labor agreement for all of the projects described in subsection (2) of this section;

“(c) Whether the project labor agreement includes provisions for employing a sufficient percentage of apprentices in apprenticeable occupations and whether the employer is or will agree to become a training agent;

“(d) The numbers and categories of the trades and crafts that the project will likely require;

“(e) The potential for labor disruptions in connection with the project;

“(f) Whether anticipated benefits for the public, including efficiencies from using skilled labor, a higher quality of construction, improved safety for workers and the public and timely completion of the project, outweigh anticipated costs associated with a project labor agreement;

“(g) The urgency of the project and the harm to the public interest if delays occur in the project schedule; and

“(h) The size and complexity of the project and the time necessary to complete the project.

“(4)(a) The director shall ensure that, at a minimum, any project labor agreement the director determines is appropriate for any of the projects described in subsection (2) of this section:

“(A) Designates a general contractor or project manager for the project with experience in negotiating and administering project labor agreements to manage the construction of the project and to develop and implement an effective labor relations policy for the project;

“(B) Allows all contractors and subcontractors to compete for contracts and subcontracts to perform work on or supply materials for the project without regard to whether the contractor or subcontractor is a party to any other collective bargaining agreement;
“(C) Has guarantees against strikes, lockouts or otherwise slowing
or stopping work on the project;
“(D) Sets forth prompt, effective and mutually binding procedures
for resolving labor disputes that arise during the term of the agree-
ment; and
“(E) Binds all contractors and all subcontractors at any tier that
perform work on the construction project to the provisions set forth
in this paragraph by means of:
“(i) Appropriate specifications in solicitation documents for the
project and in contractors’ solicitations for subcontracts for the
project; and
“(ii) Appropriate terms and conditions in each public contract and
all subcontracts for the project.

“CAPTIONS

“SECTION 37. The unit and section captions used in this 2021 Act
are provided only for the convenience of the reader and do not become
part of the statutory law of this state or express any legislative intent
in the enactment of this 2021 Act.

“EFFECTIVE DATE

“SECTION 38. This 2021 Act takes effect on the 91st day after the
date on which the 2021 regular session of the Eighty-first Legislative
Assembly adjourns sine die.”.