

Enrolled
House Bill 2295

Sponsored by Representative LEWIS, Senator MANNING JR; Representatives CATE, DEXTER, EVANS, GRAYBER, LEVY E, MCLAIN, NELSON, NERON, WALTERS, Senators CAMPOS, HAYDEN, LIEBER, SOLLMAN (at the request of Lacey Beaty) (Pre-session filed.)

CHAPTER

AN ACT

Relating to veteran-owned businesses; creating new provisions; amending ORS 184.404, 200.005, 200.025, 200.045, 200.055, 200.065, 200.075, 200.090, 200.110, 200.120, 279A.105, 279A.107, 279A.110, 279C.110, 279C.537, 279C.836, 285B.740, 285B.764, 286A.615, 293.796, 353.130, 431A.400, 468A.805 and 470.560; and prescribing an effective date.

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

SECTION 1. ORS 184.404 is amended to read:

184.404. (1) The Director of the Oregon Department of Administrative Services, with the approval of the State Treasurer, may enter into one or more agreements on behalf of the State of Oregon to grant the incremental baseball tax revenues for a period of not more than 30 years. The grant agreements must:

(a) Provide that the granted amounts may be used only to pay for the costs of financing, developing, constructing and furnishing a major league stadium;

(b) Provide that:

(A) The total payments to the grantees are limited so that the grantees do not receive, in the aggregate, more than \$150 million for costs of developing, constructing and furnishing a major league stadium, plus the actual, reasonable financing costs incurred by the grantees for that amount; and

(B) If the incremental baseball tax revenues in a year substantially exceed the amount reasonably required to amortize a loan of \$150 million over a period of 30 years with interest, the excess may be retained by the state;

(c) Terminate when:

(A) The State of Oregon has made all payments assigned to the state in the grant agreements for the costs allowed under this subsection; and

(B) The grantees have returned any amounts required to be returned under paragraph (i) of this subsection;

(d) Require the Director of the Department of Revenue to estimate incremental baseball tax revenues, specify the methodology for estimating incremental baseball tax revenues and notify the Director of the Oregon Department of Administrative Services of the estimated incremental baseball tax revenues;

(e) Specify the methodology for determining actual incremental baseball tax revenues;

(f) Require the Director of the Oregon Department of Administrative Services to request that the Legislative Assembly appropriate an amount equal to the estimated incremental baseball tax

revenues from the General Fund to the Major League Stadium Grant Fund established in ORS 184.408 so that those moneys may be disbursed under the grant agreements authorized by this section;

(g) Require the Director of the Department of Revenue to determine the actual incremental baseball tax revenues and, if the actual incremental baseball tax revenues exceed the estimated incremental baseball tax revenues, notify the Director of the Oregon Department of Administrative Services of the excess;

(h) Require the Director of the Oregon Department of Administrative Services, if notified of an excess under paragraph (g) of this subsection, to request that the Legislative Assembly appropriate an amount equal to the excess, adjusted for the limits and retentions described in paragraph (b) of this subsection, from the General Fund to the Major League Stadium Grant Fund so that those moneys may be disbursed under the grant agreements authorized by this section;

(i) Require the grantees to return to the Director of the Oregon Department of Administrative Services for deposit in the General Fund amounts transferred to the grantees from the Major League Stadium Grant Fund that exceed the actual incremental baseball tax revenues;

(j) Provide that the amounts requested for appropriations may not be reduced because of any reduction that may be enacted in Oregon personal income tax rates;

(k) Require the Director of the Oregon Department of Administrative Services to disburse amounts in the Major League Stadium Grant Fund to the grantees on particular dates;

(L) Provide assurances of full and fair participation in the construction, furnishing and operation of the major league stadium by minority-owned businesses, woman-owned businesses, **veteran-owned** businesses [*that service-disabled veterans own*] and emerging small businesses;

(m) Provide for the maximization of economic benefits for Oregon workers in the construction, furnishing and operation of the major league stadium to the greatest extent permitted by law; and

(n) Require the State of Oregon and the grantees to take any other action that the State Treasurer, the Director of the Oregon Department of Administrative Services or the Director of the Department of Revenue determines is desirable to ensure that:

(A) The granted funds are used for the purposes described in ORS 184.400 to 184.408;

(B) The grant agreements are administered efficiently and the interests of the State of Oregon are protected; and

(C) The requests for appropriation of amounts equal to the incremental baseball tax revenues are made as described in ORS 184.400 to 184.408.

(2) The obligation of the State of Oregon, under ORS 184.400 to 184.408 and the grant agreements authorized by this section, to transfer estimated or actual incremental baseball tax revenues to the Major League Stadium Grant Fund is subject to an appropriation being made for that purpose by the Legislative Assembly. The State of Oregon is not liable to any party for any reason if the Legislative Assembly fails to appropriate all or a portion of the amounts requested under subsection (1)(f) and (h) of this section to the Major League Stadium Grant Fund. However, if the Legislative Assembly does appropriate amounts for deposit in the Major League Stadium Grant Fund and those amounts are deposited in the Major League Stadium Grant Fund pursuant to the grant agreements authorized by this section, the obligation of the State of Oregon to disburse the amounts in the Major League Stadium Grant Fund is unconditional. The grant agreements authorized by this section are not a pledge of the full faith and credit or the taxing power of the State of Oregon, and the State of Oregon does not pledge its full faith and credit or taxing power. The grant agreements do not create an indebtedness of the State of Oregon in violation of Article XI, section 7, of the Oregon Constitution. If a provision of a grant agreement is construed to have the effect of creating a debt in violation of Article XI, section 7, of the Oregon Constitution, the provision is void.

(3) The Legislative Assembly does not have a legal obligation to appropriate any amounts for disbursement under the grant agreements authorized by this section. However, the Legislative Assembly declares its current intention to appropriate amounts equal to the estimated incremental baseball tax revenues and amounts equal to the amount by which the actual incremental baseball tax revenues exceed the estimated incremental baseball tax revenues from the General Fund to the

Major League Stadium Grant Fund, as provided in ORS 184.400 to 184.408, so that the amounts may be disbursed pursuant to the grant agreements authorized by this section.

(4) Before commencing negotiations on a grant agreement authorized by this section, the Oregon Department of Administrative Services shall obtain one or more agreements from benefited parties to pay the state's costs associated with negotiating and executing the grant agreement.

SECTION 2. 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 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*] "**veteran-owned business**" 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, **veteran-owned** 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)] (9) "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)] (10) "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)] (11) "State contracting agency" has the meaning given that term in ORS 279A.010.

[(13)] (12) "Subcontractor" means a contractor that does not have a direct contractual relationship with a contracting agency.

[(14)] (13) "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)] (14) "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.

(15)(a) **"Veteran" means an individual who:**

(A) Served on active duty with the Armed Forces of the United States:

(i) For a period of more than 90 consecutive days beginning on or before January 31, 1955, and was discharged or released under honorable conditions;

(ii) For a period of more than 178 consecutive days beginning after January 31, 1955, and was discharged or released from active duty under honorable conditions;

(iii) For 178 days or less and was discharged or released from active duty under honorable conditions because of a service-connected disability;

(iv) For 178 days or less and was discharged or released from active duty under honorable conditions and has a disability rating from the United States Department of Veterans Affairs; or

(v) For at least one day in a combat zone and was discharged or released from active duty under honorable conditions;

(B) Received a combat or campaign ribbon or an expeditionary medal for service in the Armed Forces of the United States and was discharged or released from active duty under honorable conditions;

(C) Is receiving a nonservice-connected pension from the United States Department of Veterans Affairs;

(D) Is a disabled veteran, as defined in ORS 408.225; or

(E) Has been a reserve officer or member of a National Guard unit for at least five years before the individual seeks a certification under ORS 200.055.

(b) As used in paragraph (a) of this subsection, "active duty" does not include attendance at a school under military orders, except schooling incident to an active enlistment or a regular tour of duty, or normal military training as a reserve officer or member of an organized reserve or a National Guard unit.

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

SECTION 3. ORS 200.025 is amended to read:

200.025. (1) The Governor shall appoint a Governor's Policy Advisor for Economic and Business Equity within the office of the Governor.

(2) The Certification Office for Business Inclusion and Diversity is created within the Oregon Business Development Department, and the Director of the Oregon Business Development Department shall appoint the employees of the office.

(3) The Governor's Policy Advisor for Economic and Business Equity shall:

(a) Advise the Governor and the director on activities and initiatives that may promote the economic integration of minorities, women, [*service-disabled*] veterans and emerging small businesses into the business sector;

(b) Prepare an annual report to the Governor, director and Legislative Assembly on disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, **veteran-owned** businesses [*that service-disabled veterans own*] and emerging small businesses that examines:

(A) The status of the enterprises and businesses in the marketplace;

(B) Accomplishments and resolutions that have occurred with respect to issues that concern the enterprises and businesses; and

(C) Recommendations for executive and legislative action; and

(c) Carry out other duties that the Governor may assign.

(4) The Certification Office for Business Inclusion and Diversity shall:

(a) Provide information to minority-owned businesses, woman-owned businesses, **veteran-owned** businesses [*that service-disabled veterans own*] and emerging small businesses;

(b) Assist in developing and implementing an aggressive strategy for this state, based on research and monitoring, that encourages minorities, women, [*service-disabled*] veterans and emerging small businesses to participate in the state's economy;

(c) Recommend to the director methods for researching, developing and implementing a plan to involve minority-owned businesses, woman-owned businesses, **veteran-owned** businesses [*that service-disabled veterans own*] and emerging small businesses in all state programs;

(d) Maintain, in consultation with the Department of Transportation, public universities listed in ORS 352.002 and other entities, an Oregon Opportunity Register and Clearinghouse for information about contracting agency solicitations and other opportunities to submit bids or proposals to contracting agencies to provide goods, supplies and services, including professional services;

(e) Monitor the certification and compliance program under ORS 200.055 for:

(A) Disadvantaged business enterprises;

(B) Minority-owned businesses, woman-owned businesses and **veteran-owned** businesses [*that service-disabled veterans own*]; and

(C) Emerging small businesses;

(f) Investigate complaints and possible abuses of the certification program; and

(g) Assist in promoting and coordinating plans, programs and operations of state government that help minority-owned businesses, woman-owned businesses, **veteran-owned** businesses [*that service-disabled veterans own*] and emerging small businesses to participate in the economic life of this state.

SECTION 4. ORS 200.045 is amended to read:

200.045. (1) As used in this section, "required participant" means:

(a) A disadvantaged business enterprise;

(b) A minority-owned business, a woman-owned business or a **veteran-owned** business [*that a service-disabled veteran owns*]; or

(c) An emerging small business.

(2) If a public contract requires participation from a required participant and a bidder or proposer for the public contract is not a required participant, a contracting agency may award the public contract to the bidder or proposer only if the bidder or proposer:

(a) Demonstrates that the bidder or proposer is responsible; and

(b) Has made good faith efforts to encourage required participants to participate in the public contract.

(3) A contracting agency may rebuttably presume that for the purposes of this section a bidder or proposer is responsible and has made good faith efforts to encourage required participants to participate in the public contract if the bidder or proposer takes all of these actions:

(a) Attends presolicitation or prebid meetings that the contracting agency scheduled to inform disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, **veteran-owned** businesses [*that service-disabled veterans own*] and emerging small businesses of contracting and subcontracting or material supply opportunities available in connection with a public contract;

(b) Identifies and selects specific economically feasible units of the public contract that disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, **veteran-owned** businesses [*that service-disabled veterans own*] and emerging small businesses may perform in order to increase the likelihood that required participants will participate in the public contract;

(c) Advertises the opportunities described in paragraphs (a) and (b) of this subsection in general circulation publications, trade association publications and publications that serve an audience or readership that consists primarily of minorities, women, [*service-disabled*] veterans and emerging small businesses;

(d) Provides written notice of the opportunities described in paragraphs (a) and (b) of this subsection to a reasonable number of specific disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, **veteran-owned** businesses [*that service-disabled veterans own*] and emerging small businesses that the bidder or proposer identified from a list of enterprises or businesses that the Certification Office for Business Inclusion and Diversity certified under ORS 200.055, in sufficient time to allow the enterprises or businesses to participate effectively;

(e) Follows up on the bidder's or proposer's initial solicitations of interest by contacting the enterprises or businesses to which the bidder or proposer provided notice under paragraph (d) of this subsection to determine with certainty whether the enterprises or businesses are interested in the opportunities described in paragraphs (a) and (b) of this subsection;

(f) Provides interested disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, **veteran-owned** businesses [*that service-disabled veterans own*] and emerging small businesses with adequate information about plans, specifications and requirements for subcontracting or material supply work in connection with the public contract;

(g) Negotiates in good faith with interested disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, **veteran-owned** businesses [*that service-disabled veterans own*] and emerging small businesses, and did not without justifiable reason reject as unsatisfactory bids or proposals that the enterprises or businesses prepared;

(h) Advises and assists interested disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, **veteran-owned** businesses [*that service-disabled veterans own*] and emerging small businesses to obtain, when necessary, bonding, lines of credit or insurance that the contracting agency or contractor requires;

(i) Makes efforts to encourage disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, **veteran-owned** businesses [*that service-disabled veterans own*] and emerging small businesses to participate in the public contract that the contracting agency may reasonably expect will produce a level of participation that meets the contracting agency's goals or requirements; and

(j) Uses the services of minority community organizations, minority contractor groups, local, state and federal minority business assistance offices and other organizations that the Governor's Policy Advisor for Economic and Business Equity identifies as providing assistance in recruiting disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, **veteran-owned** businesses [*that service-disabled veterans own*] and emerging small businesses for participation in public contracts.

(4) A contracting agency may rebuttably presume that for the purposes of this section a bidder or proposer is not responsible and has not made good faith efforts to encourage required participants to participate in a public contract if the bidder or proposer does not take all of the actions

required under subsection (3) of this section. Superficial or pro forma efforts do not demonstrate responsibility or constitute adequate good faith efforts under this section.

SECTION 5. ORS 200.055 is amended to read:

200.055. (1)(a) An enterprise or business may apply to the Certification Office for Business Inclusion and Diversity for certification as:

- (A) A disadvantaged business enterprise;
- (B) A minority-owned business;
- (C) A woman-owned business;
- (D) A **veteran-owned** business [*that a service-disabled veteran owns*]; or
- (E) An emerging small business.

(b) An enterprise or business shall submit a separate application for each category of certification the enterprise or business seeks under paragraph (a) of this subsection.

(c) If an enterprise or business qualifies under ORS 200.005 to 200.075 and if the office approves an application from the enterprise or business, the office shall certify the enterprise or business under one or more of the categories described in paragraph (a) of this subsection.

(d) For purposes of awarding a public contract, a contracting agency shall recognize an enterprise or business with a certification from the office as the category of enterprise or business described in the certification and as having met the requirements set forth in ORS 200.005 to 200.075. For purposes of awarding a subcontract in connection with a public contract, a contractor may recognize a subcontractor with a certification from the office as the category of enterprise or business described in the certification and as having met the requirements set forth in ORS 200.005 to 200.075.

(2) In consultation with public universities listed in ORS 352.002 and the Department of Transportation, and with the approval of the Governor's Policy Advisor for Economic and Business Equity, the Oregon Business Development Department by rule shall adopt a uniform standard form and procedure to provide complete documentation of an enterprise's or a business' status as a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a **veteran-owned** business [*that a service-disabled veteran owns*] or an emerging small business. The department shall compile and make available a list of enterprises and businesses that the Certification Office for Business Inclusion and Diversity certifies under this section.

(3) If the Certification Office for Business Inclusion and Diversity denies a certification as, or decertifies, a disadvantaged business enterprise, an affected business enterprise may appeal directly to the United States Department of Transportation.

(4) If the Certification Office for Business Inclusion and Diversity denies, revokes or refuses to renew a business's certification as a minority-owned business, a woman-owned business, a **veteran-owned** business [*that a service-disabled veteran owns*] or an emerging small business, the business may request a contested case hearing as provided in ORS chapter 183.

(5) The Oregon Business Development Department, through the Certification Office for Business Inclusion and Diversity, is the sole agency that may certify enterprises and businesses as disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, **veteran-owned** businesses [*that service-disabled veterans own*] and emerging small businesses that are eligible to perform public contracts in this state.

(6) The Oregon Business Development Department by rule may establish a fee not to exceed \$100 for a copy of the list described in subsection (2) of this section and may assess contracting agencies for services under ORS 200.005 to 200.075.

(7) The Department of Transportation may collect a fee, not to exceed \$200, from a bidder or proposer at the time the bidder or proposer prequalifies to perform public contracts to cover the costs of the Oregon Business Development Department in administering ORS 200.005 to 200.075. The Department of Transportation shall transfer fees that the Department of Transportation collects under this subsection to the credit of the account established under subsection (8) of this section.

(8) The Oregon Business Development Department shall establish a special account in which to deposit fees and assessments. The special account is continuously appropriated to the Oregon Busi-

ness Development Department to meet the Oregon Business Development Department's expenses in administering ORS 200.005 to 200.075.

SECTION 6. ORS 200.065 is amended to read:

200.065. (1) A person may not fraudulently obtain or retain, attempt to fraudulently obtain or retain or aid another person in fraudulently obtaining or retaining or attempting to fraudulently obtain or retain certification as a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a **veteran-owned** business [*that a service-disabled veteran owns*] or an emerging small business.

(2) A person may not knowingly make a false claim that any person is qualified for certification or is certified under ORS 200.055 for the purpose of obtaining a public contract or subcontract or other benefit.

(3) An affected contracting agency may withhold payment, may suspend or terminate a public contract and may impose on any person a civil penalty that does not exceed 10 percent of the contract or subcontract price or \$5,000, whichever is less, for each violation of subsection (1) or (2) of this section. The person shall pay the penalty to the affected contracting agency. If the affected contracting agency does not impose a civil penalty on the person under this subsection, the Oregon Business Development Department may independently impose a civil penalty that does not exceed \$5,000 for each violation of subsection (1) or (2) of this section. The person shall pay a penalty that the department imposes to the Certification Office for Business Inclusion and Diversity.

(4) The department or an affected contracting agency shall investigate violations of subsection (1) or (2) of this section. In investigating a violation, the department or an affected contracting agency may require any additional information, administer oaths, take depositions and issue subpoenas to compel witnesses to attend and compel the production of books, papers, records, memoranda or other information necessary to carry out the department's or the affected contracting agency's duties. If a person fails to comply with any subpoena that the department or the affected contracting agency issued under this subsection or refuses to testify on any matter on which a person may lawfully be interrogated, the department or the affected contracting agency shall follow the procedure provided in ORS 183.440 to compel compliance.

(5) The department or an affected contracting agency may disqualify from submitting a bid or proposal or receiving an award of a public contract, for a period of not more than three years, any person that under oath during the course of an investigation admits to violating subsection (1) or (2) of this section or that the department or the affected contracting agency finds to have violated subsection (1) or (2) of this section. Any contracting agency that has notice of the finding of the fraudulent certification may also disqualify the person from bidding on or participating in any public contract.

SECTION 7. ORS 200.075 is amended to read:

200.075. (1) An affected contracting agency shall suspend any bidder's, proposer's, contractor's or subcontractor's right to submit a bid or proposal for, or receive an award of, a public contract in the future if the bidder, proposer, contractor or subcontractor knowingly commits any of the acts listed in this subsection. The affected contracting agency shall suspend the right only after providing notice and opportunity for hearing in a manner that the affected contracting agency provides by rule. The affected contracting agency shall specify a time for the suspension that is up to one year for a first violation, up to three years for a second violation and up to five years for a third violation. Each violation must remain on record for five years. After five years the affected contracting agency may not consider the violation in reviewing future violations. A bidder, proposer, contractor or subcontractor may not:

(a) Enter into any agreement to represent that a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a **veteran-owned** business [*that a service-disabled veteran owns*] or an emerging small business certified under ORS 200.055 will perform work or supply materials under a public contract without the knowledge and consent of the disadvantaged business enterprise, minority-owned business, woman-owned business, **veteran-owned** business [*that a service-disabled veteran owns*] or emerging small business.

(b) Exercise or permit another bidder, proposer, contractor or subcontractor to exercise management and decision making control over the internal operations of a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a **veteran-owned** business [*that a service-disabled veteran owns*] or an emerging small business, other than the bidder's, proposer's, contractor's or subcontractor's own enterprise or business. As used in this paragraph, "internal operations" does not include normal scheduling, coordination, execution or performance as a subcontractor on a public contract.

(c) Use a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a **veteran-owned** business [*that a service-disabled veteran owns*] or an emerging small business to perform a public contract or subcontract or to supply material under a public contract to meet an established goal or requirement if the disadvantaged business enterprise, minority-owned business, woman-owned business, **veteran-owned** business [*that a service-disabled veteran owns*] or emerging small business does not perform a commercially useful function in carrying out responsibilities and obligations under the public contract.

(d) Fail to perform a commercially useful function in performing a public contract or subcontract or in supplying material to a contractor or subcontractor that is performing a public contract or subcontract if the bidder, proposer, contractor or subcontractor is presented as a certified disadvantaged business enterprise, minority-owned business, woman-owned business, **veteran-owned** business [*that a service-disabled veteran owns*] or emerging small business to meet an established goal or requirement.

(2) The Certification Office for Business Inclusion and Diversity shall revoke an enterprise's or a business's certification under ORS 200.055 as a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a **veteran-owned** business [*that a service-disabled veteran owns*] or an emerging small business if, after conducting an investigation in a manner similar to the manner provided in ORS 200.065 (4) for investigating a violation of ORS 200.065 (1) or (2), the Oregon Business Development Department finds that the enterprise or business allows or commits any of the acts listed in this subsection. A disadvantaged business enterprise, a minority-owned business, a woman-owned business, a **veteran-owned** business [*that a service-disabled veteran owns*] or an emerging small business may not:

(a) Use the enterprise's or business's name to meet a goal or requirement for disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, **veteran-owned** businesses [*that service-disabled veterans own*] or emerging small businesses to participate in a public contract or subcontract if the enterprise or business does not in fact intend to or does not actually perform work under the public contract or subcontract or does not intend to or does not purchase and supply material under a public contract or subcontract to supply material.

(b) Use personnel of an uncertified enterprise or business to operate, manage or otherwise control the disadvantaged business enterprise, minority-owned business, woman-owned business, **veteran-owned** business [*that a service-disabled veteran owns*] or emerging small business.

(c) Exhibit a pattern of failing to perform a commercially useful function in performing a public contract or subcontract or supplying material to a contractor or subcontractor on a public contract if the enterprise or business is represented as a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a **veteran-owned** business [*that a service-disabled veteran owns*] or an emerging small business certified under ORS 200.055 for the purpose of meeting an established goal or requirement.

(3)(a) An affected contracting agency shall notify the department if the affected contracting agency investigates a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a **veteran-owned** business [*that a service-disabled veteran owns*] or an emerging small business for failing to perform a commercially useful function.

(b) The department may conduct an independent investigation of a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a **veteran-owned** business [*that a service-disabled veteran owns*] or an emerging small business for exhibiting a pattern of failing to

perform a commercially useful function in response to notifications from one or more affected contracting agencies under paragraph (a) of this subsection.

(4) As used in this section, “commercially useful function”:

(a) Means a function or service:

(A) That the enterprise or business actually performs;

(B) For which a demand exists in the marketplace; and

(C) For which the enterprise or business receives payment that is proportionate to the work that the enterprise or business performs or that conforms with industry standards.

(b) Does not include acting as a broker to provide for others to perform work.

SECTION 8. ORS 200.090 is amended to read:

200.090. Contracting agencies shall aggressively pursue a policy of providing opportunities for disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, **veteran-owned** businesses [*that service-disabled veterans own*] and emerging small businesses and shall cooperate with the Governor’s Policy Advisor for Economic and Business Equity to determine the best means by which to make such opportunities available.

SECTION 9. ORS 200.110 is amended to read:

200.110. (1) The Oregon Business Development Department may recognize a mentor relationship between contractors and disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, **veteran-owned** businesses [*that service-disabled veterans own*] and emerging small businesses that are certified under ORS 200.055. In order to qualify for the department’s recognition, the mentor relationship must offer the opportunity for the contractor to foster and encourage disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, **veteran-owned** businesses [*that service-disabled veterans own*] and emerging small businesses to expand the capacity of existing enterprises and businesses and to offer the opportunity for less experienced enterprises and businesses to gain training and assistance.

(2) To have the department recognize the mentor relationship described in subsection (1) of this section, a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a **veteran-owned** business [*that a service-disabled veteran owns*] or an emerging small business must follow guidelines that include, but are not limited to:

(a) Meeting the certification requirements of the U.S. Department of Transportation or ORS 200.055. The Certification Office for Business Inclusion and Diversity may approve an application for certification under ORS 200.055 at the same time the department approves a mentor arrangement.

(b) Remaining independent from the contractor and maintaining a minority individual’s, woman’s or [*service-disabled*] veteran’s actual ownership of the enterprise or business. A minority individual, woman or [*service-disabled*] veteran who owns the enterprise or business may have other employment and business interests if the employment or business interests do not conflict with the minority individual’s, woman’s or [*service-disabled*] veteran’s power to direct the management and policies of the disadvantaged business enterprise, minority-owned business, woman-owned business, **veteran-owned** business [*that a service-disabled veteran owns*] or emerging small business and to make day-to-day and major decisions on matters of management, policy and operations. A contractor may provide facilities to the enterprise or business if the contractor and the enterprise or business maintain a separate lease agreement.

(c) Complying with 49 C.F.R. 26 as to an individual’s or entity’s part ownership in a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a **veteran-owned** business [*that a service-disabled veteran owns*] or an emerging small business if the individual or entity is not certified under ORS 200.055. The enterprise or business shall report any property, equipment, supplies or other services that the enterprise or business buys, rents or receives as a donation and any investment that an individual or entity makes in the enterprise or business if the individual or entity is not certified under ORS 200.055. The report must include bills of sale, lease agreements or similar documents.

(3) A mentor relationship may include an arrangement with an independent third party, such as a bank or accountant, to act as an agent. A third party may receive progress payments for work that a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a **veteran-owned** business [*that a service-disabled veteran owns*] or an emerging small business accomplishes, made out jointly to the third party and the enterprise or business, and may make payments on behalf of the enterprise or business to material suppliers or for federal and state payroll taxes.

(4) Types of assistance that a contractor may provide in a mentor relationship to a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a **veteran-owned** business [*that a service-disabled veteran owns*] or an emerging small business include:

- (a) Financial assistance;
- (b) Technical and management assistance;
- (c) Equipment rental and use of personnel; and
- (d) Bonding assistance.

SECTION 10. ORS 200.120 is amended to read:

200.120. (1) The Oregon Business Development Department, in consultation with the Oregon Association of Minority Entrepreneurs, may approve a written development plan as part of a mentor relationship. The development plan must:

- (a) Clearly set forth the objectives and roles of the parties;
- (b) Be for a specified length of time;
- (c) Determine measurable goals that the disadvantaged business enterprise, minority-owned business, woman-owned business, **veteran-owned** business [*that a service-disabled veteran owns*] or emerging small business must reach; and
- (d) Provide that if a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a **veteran-owned** business [*that a service-disabled veteran owns*] or an emerging small business uses a mentor's resources in performing contracts or subcontracts for the mentor or for another contractor, the enterprise or business shall separately identify, account for and directly compensate the mentor for the resources. The department may closely monitor a development plan that provides that the enterprise or business will use the mentor's resources extensively.

(2) The development plan may also provide for the mentor to train the disadvantaged business enterprise, minority-owned business, woman-owned business, **veteran-owned** business [*that a service-disabled veteran owns,*] or emerging small business. Training may include:

- (a) Business planning;
- (b) Record keeping;
- (c) Technical training;
- (d) Capital formation;
- (e) Loan packaging;
- (f) Financial counseling;
- (g) Bonding; and
- (h) Equipment utilization.

(3) The Oregon Business Development Department and the Oregon Association of Minority Entrepreneurs may review the development plan annually to monitor progress.

(4) The development plan must provide that the mentor relationship may be terminated by mutual consent or if:

(a) An enterprise or a business no longer qualifies for certification under ORS 200.055 as a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a **veteran-owned** business [*that a service-disabled veteran owns*] or an emerging small business;

(b) Either party has failed or is unable to meet the party's obligations under the development plan;

(c) The disadvantaged business enterprise, minority-owned business, woman-owned business, **veteran-owned** business [*that a service-disabled veteran owns*] or emerging small business is not progressing or is not likely to progress in accordance with the development plan;

(d) The disadvantaged business enterprise, minority-owned business, woman-owned business, **veteran-owned** business [*that a service-disabled veteran owns*] or emerging small business has reached a satisfactory level of self-sufficiency to compete without resorting to special treatment provided in the development plan; or

(e) The plan or provisions of the plan are contrary to the requirements of federal, state, or local law or regulation, or otherwise contrary to public policy.

(5) The parties to the development plan, the Oregon Business Development Department and the Oregon Association of Minority Entrepreneurs shall retain copies of the plan.

(6) The development plan may provide that either party may dissolve the plan for any reason by notifying the Oregon Business Development Department and the Oregon Association of Minority Entrepreneurs.

SECTION 11. ORS 279A.105 is amended to read:

279A.105. (1) A contracting agency may require a contractor to subcontract some part of a contract to, or to obtain materials for use in performing the contract from, a business that is certified under ORS 200.055 as an emerging small business or as a **veteran-owned** business [*that a service-disabled veteran owns*].

(2) A contracting agency may require a contractor to subcontract some part of a contract to, or to obtain materials to be used in performing the contract from, a business that is certified under ORS 200.055 as an emerging small business and that, as identified by the contracting agency, is located in or draws the business's workforce from economically distressed areas, as designated by the Oregon Business Development Department.

(3) A contracting agency may require that a public contract be awarded to a responsible bidder or proposer, as defined in ORS 200.005, that the contracting agency determines has made good faith efforts as prescribed in ORS 200.045.

SECTION 12. ORS 279A.107 is amended to read:

279A.107. (1) A contracting agency that under ORS 279A.105 awards a public contract to a responsible bidder, as defined in ORS 200.005, that has made good faith efforts, as described in ORS 200.045 (3), or that awards a public contract in the course of carrying out an affirmative action goal, policy or program under ORS 279A.100 shall:

(a) Provide as a material condition of the public contract that a contractor remain certified as a disadvantaged business enterprise, minority-owned business, woman-owned business, **veteran-owned** business [*that a service-disabled veteran owns*] or emerging small business under ORS 200.055 for the entire term of the public contract, if the contracting agency awarded the public contract, in whole or in part, on the basis of the contractor's certification.

(b) Require a contractor to provide in the contractor's subcontracts that a subcontractor remain certified as a disadvantaged business enterprise, minority-owned business, woman-owned business, **veteran-owned** business [*that a service-disabled veteran owns*] or emerging small business under ORS 200.055 for the entire term of the subcontract, if the contractor awards the subcontract, in whole or in part, on the basis of the subcontractor's certification.

(c) Verify the contractor's or subcontractor's compliance with the requirements set forth in paragraphs (a) and (b) of this subsection.

(d) Verify that a contractor is paying a subcontractor that is certified under ORS 200.055 promptly as provided in ORS 279B.220 or 279C.570, as appropriate.

(2)(a) If a contracting agency determines at any time during the term of a public contract that a contractor to which the contracting agency awarded the public contract on the basis described in subsection (1) of this section, or a subcontractor to which the contractor awarded a subcontract in connection with the public contract on the basis described in subsection (1) of this section, is no longer certified, the contracting agency may:

(A) Terminate the public contract;

(B) Require the contractor to terminate the subcontract; or

(C) Exercise any of the remedies for breach of contract that are reserved in the public contract.

(b) The actions a contracting agency may take under paragraph (a) of this subsection are in addition to and not in lieu of any other action the Oregon Business Development Department may take with respect to the contractor or subcontractor under ORS 200.065.

(c) Paragraph (a) of this subsection does not apply to an emerging small business as defined in ORS 200.005 that, because of growth in the number of full-time equivalent employees or average annual gross receipts that occurs during the term of the public contract, no longer qualifies as a tier one firm or tier two firm, as those terms are defined in ORS 200.005, or for which a certification under ORS 200.055 expires during the term of the public contract.

SECTION 13. ORS 279A.110 is amended to read:

279A.110. (1) A bidder or proposer that competes for or is awarded a public contract may not discriminate against a subcontractor in awarding a subcontract because the subcontractor is a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a **veteran-owned** business [*that a service-disabled veteran owns*] or an emerging small business that is certified under ORS 200.055.

(2) A contracting agency may debar or disqualify, under ORS 279B.130 or 279C.440, as appropriate, a bidder or proposer if the contracting agency finds that the bidder or proposer has violated subsection (1) of this section in awarding a subcontract in connection with a contract the contracting agency advertised or otherwise solicited or a contract between the contracting agency and the bidder or proposer. A debarred or disqualified bidder or proposer may appeal the debarment or disqualification under ORS 279B.425 or ORS 279C.445 and 279C.450, as appropriate.

(3) A contracting agency may not allege an occurrence of discrimination in subcontracting as a basis for debarring or disqualifying a bidder or proposer under subsection (2) of this section more than three years after the alleged discriminatory conduct occurred or more than three years after the contracting agency, in the exercise of reasonable diligence, should have discovered the conduct, whichever is later.

(4) A bidder or proposer shall certify in the bid or proposal that the bidder or proposer has not discriminated and will not discriminate, in violation of subsection (1) of this section, against a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a **veteran-owned** business [*that a service-disabled veteran owns*] or an emerging small business in awarding a subcontract.

(5) If a contracting agency awards a public contract to a contractor and the contractor violates the contractor's certification under subsection (4) of this section, the contracting agency may regard the violation as a breach of contract that permits the contracting agency to:

(a) Terminate the contract; or

(b) Exercise any of the remedies for breach of contract that are reserved in the contract.

SECTION 14. ORS 279C.110 is amended to read:

279C.110. (1) A contracting agency shall select a consultant to provide architectural, engineering, photogrammetric mapping, transportation planning or land surveying services on the basis of the consultant's qualifications for the type of professional service required. A contracting agency may solicit or use pricing policies and proposals or other pricing information, including the number of hours proposed for the service required, expenses, hourly rates and overhead, to determine consultant compensation only after the contracting agency has selected a consultant.

(2) Subject to the requirements of subsection (1) of this section, the procedures that a contracting agency creates to screen prospective consultants and make a selection are at the contracting agency's sole discretion. The contracting agency may adjust the procedures to accommodate the contracting agency's scope, schedule or objectives for a particular project if the estimated cost of the architectural, engineering, photogrammetric mapping, transportation planning or land surveying services for the project does not exceed \$250,000.

(3) A contracting agency's screening and selection procedures under this section, regardless of the estimated cost of the architectural, engineering, photogrammetric mapping, transportation planning or land surveying services for a project, may include considering each prospective consultant's:

(a) Specialized experience, capabilities and technical competence, which the prospective consultant may demonstrate with the prospective consultant's proposed approach and methodology to meet the project requirements;

(b) Resources committed to perform the services and the proportion of the time that the prospective consultant's staff would spend to perform services for the contracting agency, including time for specialized services, within the applicable time limits;

(c) Record of past performance, including but not limited to price and cost data from previous projects, quality of work, ability to meet schedules, cost control and contract administration;

(d) Ownership status and employment practices regarding disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, **veteran-owned** businesses [*that service-disabled veterans own*], emerging small businesses or historically underutilized businesses;

(e) Availability to the project locale;

(f) Familiarity with the project locale; and

(g) Proposed project management techniques.

(4) If the screening and selection procedures a contracting agency follows under this section or creates under subsection (2) of this section result in the contracting agency's determination that two or more prospective consultants are equally qualified, the contracting agency may use any process to select a consultant that is not based on the prospective consultant's pricing policies, proposals or other pricing information.

(5) Notwithstanding the requirement in subsection (1) of this section that a contracting agency may not solicit or use pricing policies, proposals or other pricing information until after the contracting agency has selected a consultant, a local contracting agency may use pricing policies, proposals or other pricing information as part of the local contracting agency's screening and selection of prospective consultants if the local contracting agency:

(a) States in solicitation documents for the procurement:

(A) That the local contracting agency will screen and select prospective consultants as provided in this subsection;

(B) How the local contracting agency will rank proposals from prospective consultants, with a specific focus on:

(i) Which factors the local contracting agency will consider in evaluating proposals, including pricing policies, proposals or other pricing information, if the local contracting agency will use pricing policies, proposals or other pricing information in the evaluation; and

(ii) The relative weight the local contracting agency will give each factor, disclosing at a minimum the number of available points for each factor, the percentage each factor comprises in the total evaluation score and any other weighting criteria the local contracting agency intends to use;

(C) An estimate of the cost of professional services the local contracting agency requires for the procurement; and

(D) A scope of work that is sufficiently detailed to enable a prospective consultant to prepare a responsive proposal.

(b) Evaluates each prospective consultant on the basis of the prospective consultant's qualifications to perform the professional services the local contracting agency requires for the procurement. The local contracting agency may use the criteria set forth in subsection (3) of this section to conduct the evaluation.

(c) Announces the evaluation scores and rank for each prospective consultant after completing the evaluation described in paragraph (b) of this subsection. The local contracting agency may determine that as many as three of the top-ranked prospective consultants are qualified to perform the professional services the local contracting agency requires for the procurement and may request a pricing proposal for the scope of work stated in paragraph (a)(D) of this subsection from each of the top-ranked consultants. The pricing proposal:

(A) Must consist of:

(i) A schedule of hourly rates that the prospective consultant will charge for the work of each individual or each labor classification that will perform the professional services the local con-

tracting agency requires for the procurement, in the form of an offer that is irrevocable for not less than 90 days after the date of the proposal; and

(ii) A reasonable estimate of hours that the prospective consultant will require to perform the professional services the local contracting agency requires for the procurement; and

(B) May include, at the local contracting agency's request, additional pricing information that is limited to:

(i) A description of each task that the prospective consultant understands as comprising the professional services;

(ii) A list of each individual or labor classification that will perform each task, together with the hourly rate that applies to the individual or labor classification; and

(iii) A list of expenses, including travel expenses, that the prospective consultant expects to incur in connection with providing the professional services.

(d) Permits a prospective consultant identified as qualified under paragraph (c) of this subsection to withdraw from consideration for the procurement if the prospective consultant does not wish to provide a price proposal.

(e) Completes the evaluation and selects a consultant from among the top-ranked prospective consultants that have not withdrawn as provided under paragraph (d) of this subsection, giving not more than 15 percent of the weight in the evaluation to each prospective consultant's price proposal.

(6) The contracting agency and the consultant that the contracting agency selects shall mutually discuss, refine and finalize the scope of, the rates and number of hours applicable to, and the maximum compensation level for the professional services and shall negotiate conditions including, but not limited to, a performance schedule for the project. The contracting agency may not pay a compensation level that exceeds a level that the contracting agency alone determines is fair and reasonable to the contracting agency. Authority to negotiate a contract under this section does not supersede any provision of ORS 279A.140 or 279C.520.

(7) If the contracting agency and a consultant that the contracting agency selected are unable for any reason to negotiate a contract at a compensation level that is reasonable and fair to the contracting agency, the contracting agency shall, either orally or in writing, formally terminate negotiations with the selected consultant. The contracting agency may then negotiate with the next most qualified prospective consultant. The contracting agency may continue in this manner through successive prospective consultants until an agreement is reached or the contracting agency terminates the selection process.

(8) A prospective consultant has a right to protest the contents of a contracting agency's solicitation documents and the contracting agency's selection of a consultant in accordance with:

(a) Protest procedures in model rules the Attorney General adopts under ORS 279A.065; or

(b) Protest procedures the contracting agency must set forth in rules that the contracting agency adopts, if the contracting agency adopts rules under ORS 279A.065 (6).

(9) A goal of this state is to promote a sustainable economy in the rural areas of this state. In order to monitor progress toward this goal, a state contracting agency shall keep a record of the locations in which architectural, engineering, photogrammetric mapping, transportation planning or land surveying services contracts and related services contracts are performed throughout this state, the locations of the selected consultants and the direct expenses of each contract. This record must include the total number of contracts awarded to each consultant over a 10-year period. The record of direct expenses must include all personnel travel expenses as a separate and identifiable expense of the contract. Upon request, the state contracting agency shall make these records available to the public.

(10) Notwithstanding the provisions of subsection (1) of this section, a contracting agency may directly appoint a consultant if the estimated cost of the architectural, engineering, photogrammetric mapping, transportation planning or land surveying services for the project does not exceed \$100,000.

(11) Notwithstanding the provisions of subsections (1) and (10) of this section, a contracting agency may directly appoint a consultant for architectural, engineering, photogrammetric mapping, transportation planning or land surveying services in an emergency.

SECTION 15. ORS 279C.537 is amended to read:

279C.537. (1) As used in this section, “diesel engine,” “nonroad diesel engine” and “motor vehicle” have the meanings given those terms in ORS 468A.795.

(2) Except as provided in subsection (4) of this section, a public improvement contract must require at least 80 percent of the total fleet of motor vehicles that are motor vehicles powered by diesel engines and equipment powered by nonroad diesel engines used on site and in the course of performing the contract to be:

(a) Motor vehicles powered by model year 2010 or newer diesel engines; and

(b) Equipment powered by nonroad diesel engines, whether or not capable of being powered by alternative fuel, that meet or exceed United States Environmental Protection Agency Tier 4 exhaust emission standards for nonroad compression ignition engines.

(3) Subsection (2) of this section applies only to a public improvement contract for a public improvement:

(a) With a value of \$20 million or more;

(b) For which the contracting agency is a state contracting agency; and

(c) If the public improvement is located within Multnomah, Clackamas or Washington County.

(4)(a) The Department of Environmental Quality may by order establish minimum standards for contract specifications relating to the use of diesel engines in the course of performing a public improvement contract by a state contracting agency. In establishing standards under this subsection, the department shall take into consideration methods for assisting contractors certified, under ORS 200.055, as disadvantaged business enterprises, minority-owned businesses, women-owned businesses, **veteran-owned** businesses [*owned by service-disabled veterans*] or emerging small businesses in complying with the minimum standards for contract specifications.

(b) The Director of Transportation, the Director of the Oregon Department of Administrative Services and the Attorney General may adopt rules for contract specifications relating to the use of diesel engines on site and in the course of performing a public improvement contract by a state contracting agency. In adopting rules under this paragraph, the directors and the Attorney General shall consider the minimum standards established by the Department of Environmental Quality under paragraph (a) of this subsection.

(c) As an alternative to meeting the requirements of subsection (2) of this section, a public improvement contract subject to subsection (2) of this section may include contract specifications that meet the minimum standards applicable to the public improvement contract under rules adopted pursuant to paragraph (b) of this subsection.

SECTION 16. ORS 279C.836 is amended to read:

279C.836. (1) Except as provided in subsection (4), (7), (8) or (9) of this section, before starting work on a contract or subcontract for a public works project, a contractor or subcontractor shall file with the Construction Contractors Board a public works bond with a corporate surety authorized to do business in this state in the amount of \$30,000. The bond must provide that the contractor or subcontractor will pay claims ordered by the Bureau of Labor and Industries to workers performing labor upon public works projects. The bond must be a continuing obligation, and the surety’s liability for the aggregate of claims that may be payable from the bond may not exceed the penal sum of the bond. The bond must remain in effect continuously until depleted by claims paid under this section, unless the surety sooner cancels the bond. The surety may cancel the bond by giving 30 days’ written notice to the contractor or subcontractor, to the board and to the Bureau of Labor and Industries. Canceling the bond relieves the surety of further liability for work performed on contracts entered into after the cancellation. The cancellation does not limit the surety’s liability for work performed on contracts entered into before the cancellation.

(2) Before permitting a subcontractor to start work on a public works project, the contractor shall verify that the subcontractor has filed a public works bond as required under this section, has

elected not to file a public works bond under subsection (7) or (8) of this section or is exempt under subsection (4) or (9) of this section.

(3) This section does not require a contractor or subcontractor to file a separate public works bond for each public works project for which the contractor or subcontractor has a contract.

(4) This section does not require a person that is not required under ORS 279C.800 to 279C.870 to pay prevailing rates of wage on a public works project to file a public works bond under this section.

(5) A public works bond required by this section is in addition to any other bond the contractor or subcontractor is required to obtain.

(6) The board may, by rule, require a contractor or subcontractor to obtain a new public works bond if a surety pays a claim out of an existing public works bond. The new bond must be in the amount of \$30,000. The board may allow a contractor or subcontractor to obtain, instead of a new bond, a certification that the surety remains liable for the full penal sum of the existing bond, notwithstanding payment by the surety on the claim.

(7)(a) A disadvantaged business enterprise, a minority-owned business, a woman-owned business, a **veteran-owned** business [*that a service-disabled veteran owns*] or an emerging small business certified under ORS 200.055 may, for up to four years after certification, elect not to file a public works bond as required under subsection (1) this section. If an enterprise or a business elects not to file a public works bond, the enterprise or business shall give the board written verification of the certification and written notice that the enterprise or business elects not to file the bond.

(b) Notwithstanding paragraph (a) of this subsection, if the Commissioner of the Bureau of Labor and Industries finds that an enterprise or a business has violated a provision of ORS 279C.800 to 279C.870 or an administrative rule adopted under ORS 279C.800 to 279C.870, the enterprise or business must file a public works bond in accordance with subsection (1) of this section.

(c) An enterprise or a business that elects not to file a public works bond under this subsection shall notify the public agency for whose benefit the contract was awarded or, if the enterprise or business is a subcontractor, the contractor of the election before starting work on a public works project. If an enterprise or a business elects not to file a public works bond under this subsection, a claim for unpaid wages may be made against the payment bond of the enterprise or business or, if the enterprise or business is a subcontractor, the payment bond of the contractor.

(d) An election not to file a public works bond expires four years after the date the enterprise or business is certified. After an election has expired and before starting or continuing work on a contract or subcontract for a public works project, the enterprise or business shall file a public works bond with the board in accordance with subsection (1) of this section.

(8) A contractor or subcontractor may elect not to file the public works bond required under subsection (1) of this section for any public works project for which the contract price does not exceed \$100,000.

(9) In cases of emergency, or if the interest or property of the public agency for whose benefit the contract was awarded probably would suffer material injury by delay or other cause, the requirement for filing a public works bond may be excused, if a declaration of the emergency is made in accordance with rules adopted under ORS 279A.065.

(10) The board shall make available on a searchable public website information concerning public works bonds filed with the board, claims made on those bonds, elections made by certified business enterprises not to file those bonds and the expiration date of each election. The board may adopt rules necessary to perform the duties required of the board by this section.

(11) The commissioner, with approval of the board, shall adopt rules that establish language for public works bonds.

SECTION 17. ORS 285B.740 is amended to read:

285B.740. It is the intent of the Legislative Assembly that in the administration of ORS 285B.740 to 285B.758, the Oregon Business Development Department work closely with regional economic development organizations, community development corporations, small business development centers and organizations that promote and assist minority-owned businesses, woman-owned businesses,

veteran-owned businesses [*that service-disabled veterans own*] and emerging small businesses, as those terms are defined in ORS 200.005, and utilize policies, priorities and practices that further entrepreneurial and small business development in rural communities. The department, to the maximum extent feasible and consistent with prudent financial controls, may delegate the administration and operation of the loan program created by ORS 285B.740 to 285B.758 to local and community-based entities. To carry out the policy described in this section:

(1) The department may contract with any nonprofit corporation or agency with experience and expertise in business finance to administer all or any part of the loan program created by ORS 285B.740 to 285B.758.

(2) When entering into an agreement for the administration of the loan program by any nonprofit corporation or agency, the department may agree to waive any claims it may have against such corporation or agency for losses arising out of the normal course of business, as long as the corporation or agency does not act negligently or fraudulently in providing loans under ORS 285B.740 to 285B.758.

(3) When entering into an agreement to have a nonprofit corporation or agency administer the loan program created by ORS 285B.740 to 285B.758, the department may pay loan origination and loan servicing fees to the corporation or agency. The amount of such fees may be determined in the agreement between the department and the administering corporation or agency.

SECTION 18. ORS 285B.764 is amended to read:

285B.764. As used in ORS 285B.764 to 285B.775:

(1) "Eligible business" means one of the following businesses as defined in ORS 200.005 that is operated for profit and has been certified by the Certification Office for Business Inclusion and Diversity under ORS 200.055 at the time an application is referred on behalf of the business to the Oregon Business Development Department under ORS 285B.771:

- (a) A disadvantaged business enterprise;
- (b) A minority-owned business;
- (c) A woman-owned business;
- (d) A **veteran-owned** business [*that a service-disabled veteran owns*]; or
- (e) An emerging small business.

(2) "Prime rate" means the primary credit rate of the discount window program of the United States Federal Reserve System.

(3) "Technical assistance provider" means a small business development center established under ORS 285B.165 to 285B.171 or a culturally specific business association or chamber that provides one-on-one business counseling services.

SECTION 19. ORS 286A.615 is amended to read:

286A.615. (1) The Private Activity Bond Committee is established. It shall consist of the State Treasurer or the designee of the State Treasurer, one representative from the Oregon Department of Administrative Services and one public representative appointed to serve at the pleasure of the Governor.

(2) The State Treasurer, or the State Treasurer's designee, shall serve as chair of the committee.

(3) The purpose of private activity bonding in this state is to maximize the economic benefits of private activity bonding to the citizens of this state. The committee shall adopt by rule standards for amounts allocated to the committee for further allocation for economic development, housing, education, redevelopment, public works, energy, waste management, waste and recycling collection, transportation and other activities that the committee determines will benefit the citizens of this state. In developing standards, the committee shall:

- (a) Survey the expected need for private activity bond allocations at least once each year;
- (b) Develop strategies for reserving and allocating the limit that are designed to maximize the availability of tax exempt financing among competing sectors of the Oregon economy; and
- (c) Ensure that the standards include but are not limited to standards that:
 - (A) Support projects that increase the number of family wage jobs in this state.
 - (B) Promote economic recovery in small cities heavily dependent on a single industry.

(C) Emphasize development in underdeveloped rural areas of this state.

(D) Utilize educational resources available at public universities listed in ORS 352.002.

(E) Support development of the state's small businesses, especially minority-owned businesses, woman-owned businesses, **veteran-owned** businesses [*that service-disabled veterans own*] and emerging small businesses, as those terms are defined in ORS 200.005.

(F) Encourage use of Oregon's human and natural resources in endeavors that harness Oregon's economic comparative advantages.

(4) The state private activity bond volume cap allocated to the Private Activity Bond Committee as provided in ORS 286A.620 shall be allocated and reallocated among issuers by the Private Activity Bond Committee as follows:

(a) Any amounts not reserved to an issuer or a class of issuers under the authorization adopted by the Legislative Assembly under ORS 286A.035 shall be allocated or reallocated by the committee under rules adopted under subsection (3) of this section.

(b) Any amounts provided for in the authorization adopted by the Legislative Assembly under ORS 286A.035 that are unused shall be carried forward for use as provided by rules adopted under subsection (3) of this section.

(c) The rules adopted by the committee shall limit the period of time for which an allocation of private activity bonding authority is effective. The rules shall ensure that allocations made during a calendar year are used during that calendar year or that the unused amount of the allocation is reallocated or carried forward.

(5) Unused allocations are not transferable among issuers but are available for reallocation.

SECTION 20. ORS 293.796 is amended to read:

293.796. (1) The Legislative Assembly finds that:

(a) The availability of venture capital for the start-up and subsequent expansion of new businesses is critical to the continued growth and development of the economy of Oregon.

(b) There exists an estimated gap of between \$100 million and \$200 million between available venture capital resources and the need of Oregon businesses for such resources.

(c) Investments in start-up and expanding businesses, in minority-owned businesses, woman-owned businesses and **veteran-owned** businesses [*that service-disabled veterans own*] and in emerging growth businesses can produce substantial positive returns for long-term investors.

(d) Pension funds managed by the Oregon Investment Council constitute a major financial resource of the State of Oregon, and that such funds may be prudently invested in start-up and emerging growth businesses in this state under policies established by the Oregon Investment Council.

(2) As used in this section:

(a) "Emerging growth business" means an individual or group of individuals or a new or small company, including but not limited to any new or small partnership, limited liability company, corporation, firm, association or other business entity, that has the capacity, upon obtaining appropriate capital, to generate significant high-skill, high-wage employment.

(b) "Minority-owned business," "woman-owned business" and "**veteran-owned business**" [*"business that a service-disabled veteran owns"*] have the meanings given those terms in ORS 200.005.

SECTION 21. ORS 353.130 is amended to read:

353.130. The Oregon Health and Science University subscribes to the policy set forth under ORS 279A.015 regarding public contracting, and shall develop contract policies that support openness, impartiality and competition in the awarding of contracts in accordance with that provision. The university subscribes to the intent of the social policies of ORS 279.835 to 279.855 and ORS chapters 279A, 279B and 279C and shall develop contract policies that are appropriate to the university and are designed to encourage affirmative action, recycling, inclusion of art in public buildings, the purchase of services and goods from individuals with disabilities, the protection of workers through the payment of prevailing wages as determined by the Bureau of Labor and Industries, the provision of workers' compensation insurance to workers on contracts and the participation of minority-owned

businesses, woman-owned businesses, **veteran-owned** businesses [*that service-disabled veterans own*] and emerging small businesses, as those terms are defined in ORS 200.005.

SECTION 22. ORS 431A.400, as amended by section 33, chapter 86, Oregon Laws 2022, is amended to read:

431A.400. (1) As used in this section:

(a) “Eligible entity” means a:

- (A) Local government as defined in ORS 174.116;
- (B) Local housing authority;
- (C) Nonprofit organization;
- (D) Federally recognized Indian tribe in Oregon;
- (E) Indian health center;
- (F) Coordinated care organization as defined in ORS 414.025;
- (G) Community action agency as described in ORS 458.505;
- (H) Manufactured dwelling park nonprofit cooperative as defined in ORS 62.803;
- (I) An electric utility as defined in ORS 757.600; or
- (J) A natural gas utility as defined in ORS 757.392.

(b) “Environmental justice factor” means a circumstance or condition that impacts a community’s ability to achieve a balance of health, economic or environmental benefits and burdens or that impacts a community’s ability to participate in public processes.

(c) “Grant program recipient” means an eligible entity that has been awarded a grant from the Oregon Health Authority under this section.

(d) “Landlord” means a landlord, as defined in ORS 90.100, that meets eligibility criteria for a loan, grant or other financial assistance under the Healthy Homes Program as determined by the authority.

(e) “Low income household” means a household having an income equal to or below 80 percent of the area median family income as determined by the authority.

(f) “Nonprofit organization” means an organization or group of organizations that is described in section 501(c)(3) of the Internal Revenue Code and is exempt from income tax under section 501(a) of the Internal Revenue Code.

(g) “Repair and rehabilitation” includes actions that:

- (A) Maximize energy efficiency of residences;
- (B) Extend the usable life of residences; or
- (C) Improve the health and safety of the occupants of residences, including:
 - (i) Radon abatement;
 - (ii) Lead abatement;
 - (iii) Mold and mildew abatement;
 - (iv) Installation of a smoke filtration system, an air purification system or ventilation or reduction of pathways for air infiltration;
 - (v) Removal of asthma or allergen triggers;
 - (vi) Structural or safety improvements that increase accessibility or visitability;
 - (vii) Improvements that make homes more fire resistant;
 - (viii) Structural or safety improvements that promote seismic resiliency;
 - (ix) Improvements that reduce the reflection of heat on or around the home, including improvements related to trees, vegetation, green roofs or cool roofs; and
 - (x) Electrical upgrades that improve the safety of the home or support or enable the use of energy efficiency upgrades such as heating or cooling devices.

(h) “Residence” means a dwelling that is intended for occupation by a single family and is occupied by one or more individuals who are members of a low income household as the individuals’ principal residence, including a site-built home, manufactured home, residential trailer, mobile home, condominium unit or unit within multifamily housing.

(i) “Smoke filtration system” means a residential air filtration system that meets minimum efficiency standards, as determined by the authority, for the removal of particulates and other harmful substances generated by wildfires.

(2) The Healthy Homes Program is established within the Oregon Health Authority. The purpose of the program is to provide grants to eligible entities that provide financial assistance to persons in low income households to repair and rehabilitate their residences and to landlords to repair and rehabilitate dwelling units inhabited by low income households.

(3) To be eligible to receive grants from the Healthy Homes Program, an eligible entity must establish that it:

(a) Serves or represents:

(A) Communities with high concentrations of low income households; or

(B) Communities impacted by environmental justice factors, including but not limited to:

(i) Areas with above-average concentrations of historically disadvantaged households or residents with low levels of educational attainment, areas with high unemployment, high linguistic isolation, low levels of homeownership or high rent burden or sensitive populations;

(ii) Areas disproportionately affected by environmental pollution and other hazards that can lead to negative public health effects, exposure or environmental degradation; or

(iii) Other environmental justice factors as determined by the authority.

(b) Has the capacity to administer grant funds received under this section.

(c) Is able to comply with the requirements of all state and federal laws, rules and regulations.

(4)(a) The authority shall adopt by rule processes for eligible entities to apply to receive grants from the Healthy Homes Program. The processes may include a request for proposals.

(b) The authority may adopt by rule:

(A) Standards for repair and rehabilitation activities conducted by low-income households;

(B) Standards for repair and rehabilitation activities conducted by landlords;

(C) Additional requirements for landlords who receive program funds; and

(D) Provisions for the allocation of program funds including but not limited to allocations for types of eligible entities, types of recipients, types of housing and regions of this state.

(c) The authority, in consultation with the Governor’s Policy Advisor for Economic and Business Equity, may establish by rule standards for the work performed using grants from the program to be performed by disadvantaged business enterprises, minority-owned businesses, woman-owned businesses or **veteran-owned** businesses [*that service-disabled veterans own*], as those terms are defined in ORS 200.005.

(5) Upon being awarded a grant under this section, the grant program recipient shall enter into an agreement with the authority that contains provisions that:

(a) Indicate the purposes for which the grant funds may be used;

(b) Prohibit the grant program recipient from using more than 15 percent of grant funds for administrative expenses and program delivery costs;

(c) Include the repayment provisions set forth in subsection (6) of this section;

(d) Permit the authority to conduct audits and investigations of the grant program recipient regarding the purposes for which grant funds have been used; and

(e) Require the grant program recipient to provide reports as set forth in subsection (7) of this section.

(6) A grant program recipient must repay to the authority, in whole or in part, grant funds received under this section to the extent that:

(a) The grant program recipient does not use the grant funds in accordance with the provisions of the grant agreement executed between the authority and the grant program recipient under subsection (5) of this section; or

(b) The Director of the Oregon Health Authority determines that the grant program recipient must repay all or part of the grant funds on grounds of misappropriation, fraud or similar reasons after auditing or investigating the grant program recipient’s operations and conducting a contested case hearing under ORS 183.413 to 183.470.

(7) A grant program recipient shall report to the authority by June 30 of each year concerning the status and use of grant funds received under this section. The report required under this section may not disclose the personal information of the recipients of loans, grants or other financial assistance under the Healthy Homes Program. The report must include:

- (a) A detailed description of the grant program recipient's use of grant funds;
- (b) A list of each loan, grant or other financial assistance that the grant program recipient has provided and, where applicable, a full accounting of the repayment status of the loans;
- (c) The number of low income households that the grant program recipient has provided financial assistance to for the repair and rehabilitation of their residences;
- (d) The number of landlords that the grant program recipient has provided financial assistance to for the repair and rehabilitation of dwelling units;
- (e) The nature and amounts of the administrative expenses and program delivery costs the grant program recipient has incurred in providing the financial assistance under the program;
- (f) Disaggregated data concerning the income, racial or ethnic background, family size and related demographic information of low income households who received financial assistance for repair and rehabilitation of residences under the program from the grant program recipient; and
- (g) Any other information required by the authority.

(8) The authority may not pay amounts for grants under this section from any source other than available funds in the Healthy Homes Repair Fund established in ORS 431A.402.

(9) Under the Healthy Homes Program, the authority may develop, or contract with public institutions of higher education or nonprofit organizations to assist in developing:

- (a) Methods for evaluating health hazards in housing;
- (b) Methods for preventing and reducing health hazards in housing;
- (c) Performance measures for the work being performed through the financial assistance provided under the program; and
- (d) Recommendations for promoting the incorporation of healthy housing into ongoing practices and systems, including housing codes.

SECTION 23. ORS 468A.805 is amended to read:

468A.805. (1) Subject to and consistent with ORS 468A.803 (8) and with the terms of the Environmental Mitigation Trust Agreement, any moneys received by the State of Oregon pursuant to the agreement that are deposited in the Clean Diesel Engine Fund under ORS 468A.801 must be expended by the Department of Environmental Quality as follows:

(a) The department shall award grants to owners and operators of school buses to reduce emissions from at least 450 school buses powered by diesel engines operating in this state.

(b) Moneys not expended under paragraph (a) of this subsection must be:

- (A) Awarded as grants for the purpose of reducing emissions from diesel engines; or
- (B) Utilized by the department as the State of Oregon's voluntary matching funds under the Diesel Emissions Reduction Act Program in the Energy Policy Act of 2005, 42 U.S.C. 16133, and for the purpose of awarding grants for reducing diesel particulate matter emissions from diesel engines.

(2)(a) In awarding grants under subsection (1)(a) of this section, the department shall begin by awarding grants to owners and operators of school buses powered by diesel engines that are of the median model year of school buses powered by diesel engines operating in this state, and shall proceed to award grants for school buses powered by diesel engines through the adjoining model years until the requirements of subsection (1)(a) of this section are met. A grant may be awarded under subsection (1)(a) of this section for any school bus powered by a diesel engine within the control of an owner or operator that meets the following conditions:

- (A) The school bus has at least three years of remaining useful life;
- (B) Use of the school bus has occurred in Oregon during the year preceding the date of the grant; and
- (C) For the three years following receipt of a grant award, use of the school bus to which the owner or operator applies the grant will occur in Oregon.

(b) The grant amount per school bus awarded under subsection (1)(a) of this section shall be for:

(A) \$50,000 or 30 percent of the cost to purchase a school bus that meets minimum standards adopted by the State Board of Education under ORS 820.100 for the applicable class or type of school bus, whichever is less; or

(B) Up to 100 percent of the cost to retrofit a school bus with emissions-reducing parts or technology that results in a reduction of diesel particulate matter emissions by at least 85 percent when compared with the baseline emissions for the relevant engine year and application.

(3) In awarding grants pursuant to subsection (1)(b) of this section, the department shall give preference to projects that will:

(a) Support compliance with ORS 803.591 or with contract specifications or preferences related to emissions standards for diesel engines established by a public body, as defined in ORS 174.109;

(b) Be carried out by a grant applicant that is a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a **veteran-owned** business [*that a service-disabled veteran owns*] or an emerging small business, as those terms are defined in ORS 200.005;

(c) Involve the replacement, repower or retrofit of one or more motor vehicles or pieces of equipment that have at least three years of remaining useful life at the time that the grant agreement is executed;

(d) Support the utilization of fuels for which regulated parties may generate credits under the clean fuels program adopted by rule by the Environmental Quality Commission under ORS 468A.266 (1)(b);

(e) Benefit owners and operators of heavy-duty trucks, if the fleet of the owner or operator includes only one heavy-duty truck and the heavy-duty truck is registered in Multnomah, Clackamas or Washington County;

(f) Benefit small fleets other than as described in paragraph (e) of this subsection;

(g) Involve the retrofit of concrete mixer trucks or trucks that are used for the transportation of aggregate; or

(h) Meet the criteria of any other preferences that the commission may establish by rule, if the department determines that the additional preferences are necessary to ensure that grant awards result in the reduction of emissions from diesel engines.

(4) The commission may adopt rules as necessary to implement the provisions of this section.

SECTION 24. ORS 470.560 is amended to read:

470.560. (1) The State Department of Energy shall adopt rules establishing certification standards for primary contractors participating in the construction of small scale local energy projects financed through the energy efficiency and sustainable technology loan program. The department shall design the standards to ensure that the project work performed by a primary contractor holding the certification and all the primary contractor's subcontractors is of high quality and will result in a high degree of customer satisfaction.

(2) The certification standards established by the department must, at a minimum, require that the primary contractor:

(a) Prove that the primary contractor and the primary contractor's subcontractors have sufficient skill to successfully install energy efficiency, renewable energy or weatherization projects.

(b) Not be a contractor listed by the Commissioner of the Bureau of Labor and Industries under ORS 279C.860 as ineligible to receive a contract or subcontract for public works.

(c) Be an equal opportunity employer or small business or be a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a **veteran-owned** business [*that a service-disabled veteran owns*] or an emerging small business, as those terms are defined in ORS 200.005.

(d) Demonstrate a history of compliance with the rules and other requirements of the Construction Contractors Board and of the Workers' Compensation Division and the Occupational Safety and Health Division of the Department of Consumer and Business Services.

(e) Employ at least 80 percent of employees used for energy efficiency and sustainable technology loan program projects from the local work force, if a sufficient supply of skilled workers is available locally.

(f) Demonstrate a history of compliance with federal and state wage and hour laws.

(g) Pay wages to employees used for energy efficiency and sustainable technology loan program projects at a rate equal to at least 180 percent of the state minimum wage.

(3) The State Department of Energy shall consult with the Public Purpose Fund Administrator and utilities when developing certification standards for primary contractors.

(4) The Construction Contractors Board may issue a qualifying primary contractor a certification authorizing the primary contractor to participate in the construction of small scale local energy projects financed through the energy efficiency and sustainable technology loan program. A primary contractor seeking certification shall apply to the board as provided under ORS 701.119.

(5) The State Department of Energy shall identify certified primary contractors that provide employees with health insurance benefits as preferred service providers and may take other actions as practicable to encourage certified primary contractors to provide employees with health insurance benefits.

SECTION 25. The amendments to ORS 184.404, 200.005, 200.025, 200.045, 200.055, 200.065, 200.075, 200.090, 200.110, 200.120, 279A.105, 279A.107, 279A.110, 279C.110, 279C.537, 279C.836, 285B.740, 285B.764, 286A.615, 293.796, 353.130, 431A.400, 468A.805 and 470.560 by sections 1 to 24 of this 2023 Act apply to procurements that a contracting agency advertises or solicits or, if the contracting agency does not advertise or solicit the procurement, to public contracts into which the contracting agency enters on and after the operative date specified in section 26 of this 2023 Act.

SECTION 26. (1) The amendments to ORS 184.404, 200.005, 200.025, 200.045, 200.055, 200.065, 200.075, 200.090, 200.110, 200.120, 279A.105, 279A.107, 279A.110, 279C.110, 279C.537, 279C.836, 285B.740, 285B.764, 286A.615, 293.796, 353.130, 431A.400, 468A.805 and 470.560 by sections 1 to 24 of this 2023 Act become operative on January 1, 2024.

(2) The Attorney General, the Director of the Oregon Department of Administrative Services, the Director of the Oregon Business Development Department, the Director of Transportation and a contracting agency that adopts rules under ORS 279A.065 or 279A.070 may adopt rules and take any other action before the operative date specified in subsection (1) of this section that is necessary to enable the Attorney General, the director or the contracting agency to undertake or exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the Attorney General, the director or the contracting agency by the amendments to ORS 184.404, 200.005, 200.025, 200.045, 200.055, 200.065, 200.075, 200.090, 200.110, 200.120, 279A.105, 279A.107, 279A.110, 279C.110, 279C.537, 279C.836, 285B.740, 285B.764, 286A.615, 293.796, 353.130, 431A.400, 468A.805 and 470.560 by sections 1 to 24 of this 2023 Act.

SECTION 27. This 2023 Act takes effect on the 91st day after the date on which the 2023 regular session of the Eighty-second Legislative Assembly adjourns sine die.

Passed by House March 2, 2023

.....
Timothy G. Sekerak, Chief Clerk of House

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Dan Rayfield, Speaker of House

Passed by Senate June 21, 2023

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Rob Wagner, President of Senate

Received by Governor:

.....M,....., 2023

Approved:

.....M,....., 2023

.....
Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M,....., 2023

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Secretary of State