

Enrolled House Bill 2148

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Higher Education for House Interim Committee on Judiciary)

CHAPTER

AN ACT

Relating to correction of erroneous material in Oregon law; creating new provisions; amending ORS 30.865, 109.135, 146.035, 161.327, 163.193, 163.700, 173.763, 173.766, 174.112, 174.120, 174.535, 174.540, 176.260, 181.610, 197.649, 200.065, 215.211, 255.235, 258.280, 273.554, 291.229, 295.046, 329.704, 332.118, 334.125, 336.585, 336.590, 339.035, 341.425, 341.430, 341.440, 341.535, 342.156, 342.173, 342.360, 343.155, 343.224, 346.015, 346.035, 346.041, 348.105, 348.270, 351.293, 351.296, 352.720, 352.790, 390.114, 408.370, 413.011, 413.032, 413.037, 413.520, 418.580, 419B.100, 427.293, 431.864, 433.815, 442.342, 443.065, 460.330, 460.355, 461.010, 468.581, 469.805, 471.580, 496.090, 536.220, 539.040, 608.015, 646.605, 646.951, 646.957, 657.335, 671.425, 684.040, 685.060, 688.132, 701.348, 743.777, 774.070, 802.110 and 830.990 and section 4, chapter 455, Oregon Laws 2005, sections 8, 12, 14 and 16, chapter 624, Oregon Laws 2011, section 3, chapter 88, Oregon Laws 2012, and section 1, chapter 101, Oregon Laws 2012, and ORCP 38 C; and repealing section 13, chapter 658, Oregon Laws 2003, and section 8, chapter 59, Oregon Laws 2010.

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

SECTION 1. ORS 174.535 is amended to read:

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

NOTE: Sets forth Reviser’s Bill policy statement.

SECTION 2. ORCP 38 C is amended to read:

C Foreign depositions and subpoenas.

C(1) Definitions. For the purpose of this [*rule*] **section:**

C(1)(a) “Foreign subpoena” means a subpoena issued under authority of a court of record of any state other than Oregon.

C(1)(b) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.

C(2) Issuance of subpoena.

C(2)(a) To request issuance of a subpoena under this [rule] **section**, a party or attorney shall submit a foreign subpoena to a clerk of court in the county in which discovery is sought to be conducted in this state.

C(2)(b) When a party or attorney submits a foreign subpoena to a clerk of court in this state, the clerk, in accordance with that court’s procedure and requirements, shall assign a case number and promptly issue a subpoena for service upon the person to whom the foreign subpoena is directed. If a party to an out-of-state proceeding retains an attorney licensed to practice in this state, that attorney may assist the clerk in drafting the subpoena.

C(2)(c) A subpoena under this subsection shall:

(i) [*conform*] **Conform** to the requirements of these Oregon Rules of Civil Procedure, including Rule 55, and conform substantially to the form provided in Rule 55 A but may otherwise incorporate the terms used in the foreign subpoena as long as those terms conform to these rules; and

(ii) [*contain*] **Contain** or be accompanied by the names, addresses, and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel.

C(3) Service of subpoena. A subpoena issued by a clerk of court under subsection (2) of this [rule] **section** shall be served in compliance with Rule 55.

C(4) Effects of request for subpoena. A request for issuance of a subpoena under this [rule] **section** does not constitute an appearance in the court. A request does allow the court to impose sanctions for any action in connection with the subpoena that is a violation of applicable law.

C(5) Motions. A motion to the court, or a response thereto, for a protective order or to enforce, quash, or modify a subpoena issued by a clerk of court pursuant to this [rule] **section** is an appearance before the court and shall comply with the rules and statutes of this state. The motion shall be submitted to the court in the county in which discovery is to be conducted.

C(6) Uniformity of application and construction. In applying and construing this [rule] **section**, consideration shall be given to the need to promote the uniformity of the law with respect to its subject matter among states that enact it.

NOTE: Corrects internal references in C(1), (2)(a), (3), (4), (5) and (6); uppercases beginning of C(2)(c)(i) and (ii) in conformance with legislative style.

SECTION 3. ORS 30.865 is amended to read:

30.865. (1) A plaintiff has a cause of action for invasion of personal privacy if the plaintiff establishes any of the following:

(a) The defendant knowingly made or recorded a photograph, motion picture, videotape or other visual recording of the plaintiff in a state of nudity without the consent of the plaintiff, and at the time the visual recording was made or recorded the plaintiff was in a place and circumstances where the plaintiff had a reasonable expectation of personal privacy.

(b) For the purpose of arousing or gratifying the sexual desire of the defendant, the defendant was in a location to observe the plaintiff in a state of nudity without the consent of the plaintiff, and the plaintiff was in a place and circumstances where the plaintiff had a reasonable expectation of personal privacy.

(c) For the purpose of arousing or gratifying the sexual desire of any person, the defendant knowingly:

(A) Made or recorded a photograph, motion picture, videotape or other visual recording of an intimate area of the plaintiff without the consent of the plaintiff; or

(B) Viewed an intimate area of the plaintiff without the consent of the plaintiff.

(d) Without the consent of the plaintiff, the defendant disseminated a photograph, motion picture, videotape or other visual recording of the plaintiff in a state of nudity, and the defendant knew that at the time the visual recording was made or recorded the plaintiff was in a place and circumstances where the plaintiff had a reasonable expectation of personal privacy.

(2) A plaintiff who prevails in a cause of action for invasion of personal privacy under this section is entitled to receive:

- (a) Compensatory damages; and
- (b) Reasonable attorney fees.

(3) An action under this section must be commenced not later than two years after the conduct that gives rise to a claim for relief occurred.

(4) The remedy provided by this section is in addition to, and not in lieu of, any other claim for relief that may be available to a plaintiff by reason of conduct of a defendant described in subsection (1) of this section.

(5) The provisions of subsection (1)(a) and (d) of this section do not apply to a photograph, motion picture, videotape or other visual recording of a person under 12 years of age if:

(a) The person who makes, records or disseminates the visual recording is the father, mother, sibling, grandparent, aunt, uncle or first cousin, by blood, adoption or marriage, of the person under 12 years of age; and

(b) The visual recording is made, recorded or disseminated for a purpose other than arousing or gratifying the sexual desire of the person or another person.

(6) As used in this section:

(a) "Intimate area" means:

(A) Undergarments that are being worn by a person, are covered by clothing and are intended to be protected from being seen; and

(B) Any of the following that are covered by clothing and are intended to be protected from being seen:

(i) Genitals;

(ii) Pubic areas; or

(iii) Female breasts below the point immediately above the top of the areola.

(b) "Made or recorded a photograph, motion picture, videotape or other visual recording" includes, but is not limited to, making or recording or employing, authorizing, permitting, compelling or inducing another person to make or record a photograph, motion picture, videotape or other visual recording.

(c) "Nudity" means any part of the uncovered[,] or less than opaquely covered[,]:

(A) Genitals;

(B) Pubic area; or

(C) Female breast below a point immediately above the top of the areola.

(d) "Places and circumstances where the plaintiff has a reasonable expectation of personal privacy" includes, but is not limited to, a bathroom, dressing room, locker room that includes an enclosed area for dressing or showering, tanning booth and any area where a person undresses in an enclosed space that is not open to public view.

(e) "Public view" means that an area can be readily seen and that a person within the area can be distinguished by normal unaided vision when viewed from a public place as defined in ORS 161.015.

NOTE: Removes extraneous punctuation in (6)(c).

SECTION 4. Notwithstanding any other provision of law, ORS 97.660 to 97.680 shall not be considered to have been added to or made a part of ORS chapter 65 for the purpose of statutory compilation or for the application of definitions, penalties or administrative provisions applicable to statute sections in that chapter.

NOTE: Removes series from inappropriate ORS chapter.

SECTION 5. ORS 109.135 is amended to read:

109.135. (1) All filiation proceedings shall be commenced in the circuit court and shall for all purposes be deemed [*suits*] **actions** in equity. Unless otherwise specifically provided by statute, the proceedings shall be conducted pursuant to the Oregon Rules of Civil Procedure.

(2) All filiation proceedings shall be commenced and tried in the county where either the initiating party or the child resides.

NOTE: Corrects terminology in (1).

SECTION 6. ORS 146.035 is amended to read:

146.035. (1) There [*shall be*] **is** established within the Department of State Police the State Medical Examiner's office for the purpose of directing and supporting the state death investigation program.

(2) The State Medical Examiner shall manage all aspects of the State Medical Examiner's program.

(3) Subject to the State Personnel Relations Law, the State Medical Examiner may employ or discharge other personnel of the State Medical Examiner's office.

(4) The State Medical Examiner's office shall:

(a) File and maintain appropriate reports on all deaths requiring investigation.

(b) Maintain an accurate list of all active district medical examiners, assistant district medical examiners and designated pathologists.

(c) Transmit monthly to the Department of Transportation a report for the preceding calendar month of all information obtained under ORS 146.113.

(5) Notwithstanding ORS 192.501 [(35)] **(36)**:

(a) Any parent, spouse, sibling, child or personal representative of the deceased, or any person who may be criminally or civilly liable for the death, or their authorized representatives respectively, may examine and obtain copies of any medical examiner's report, autopsy report or laboratory test report ordered by a medical examiner under ORS 146.117.

(b) The system described in ORS 192.517 (1) shall have access to reports described in this subsection as provided in ORS 192.517.

NOTE: Conforms syntax in (1) to legislative style; corrects subsection reference in (5).

SECTION 7. ORS 146.035, as amended by section 6 of this 2013 Act, is amended to read:

146.035. (1) There is established within the Department of State Police the State Medical Examiner's office for the purpose of directing and supporting the state death investigation program.

(2) The State Medical Examiner shall manage all aspects of the State Medical Examiner's program.

(3) Subject to the State Personnel Relations Law, the State Medical Examiner may employ or discharge other personnel of the State Medical Examiner's office.

(4) The State Medical Examiner's office shall:

(a) File and maintain appropriate reports on all deaths requiring investigation.

(b) Maintain an accurate list of all active district medical examiners, assistant district medical examiners and designated pathologists.

(c) Transmit monthly to the Department of Transportation a report for the preceding calendar month of all information obtained under ORS 146.113.

(5) Notwithstanding ORS 192.501 [(36)] **(35)**:

(a) Any parent, spouse, sibling, child or personal representative of the deceased, or any person who may be criminally or civilly liable for the death, or their authorized representatives respectively, may examine and obtain copies of any medical examiner's report, autopsy report or laboratory test report ordered by a medical examiner under ORS 146.117.

(b) The system described in ORS 192.517 (1) shall have access to reports described in this subsection as provided in ORS 192.517.

NOTE: Corrects subsection reference in (5) to correspond with subsection renumbering of ORS 192.501 on January 2, 2016.

SECTION 8. Section 4, chapter 455, Oregon Laws 2005, as amended by section 1, chapter 719, Oregon Laws 2009, section 8, chapter 9, Oregon Laws 2011, and section 1, chapter 160, Oregon Laws 2011, is amended to read:

Sec. 4. [(1)] The amendments to ORS 192.501 by section 3, chapter 455, Oregon Laws 2005, **and the amendments to ORS 146.035 by section 7 of this 2013 Act** become operative on January 2, 2016.

[(2) *The amendments to ORS 146.035 by section 7 of this 2011 Act become operative on January 2, 2012.*]

NOTE: Delays amendments to ORS 146.035 by section 7 until date renumbering of ORS 192.501 becomes operative.

SECTION 9. ORS 161.327 is amended to read:

161.327. (1) Following the entry of a judgment pursuant to ORS 161.319, if the court finds by a preponderance of the evidence that a person found guilty except for insanity of a felony is affected by mental disease or defect and presents a substantial danger to others, the court shall enter an order as follows:

(a) If the court finds that the person is not a proper subject for conditional release, the court shall order the person committed to a state hospital or, if the person is under 18 years of age, to a secure intensive community inpatient facility for custody, care and treatment. When the court orders a person committed under this paragraph, the court shall place the person under the jurisdiction of:

(A) The Psychiatric Security Review Board, if the person is a tier one offender.

(B) The Oregon Health Authority, if the person is a tier two offender.

(b) If the court finds that the person can be adequately controlled with supervision and treatment if conditionally released and that necessary supervision and treatment are available, the court shall order the person conditionally released.

(2) When a person is conditionally released under this section, the person is subject to those supervisory orders of the court as are in the best interests of justice, the protection of society and the welfare of the person. The court shall designate a person or state, county or local agency to supervise the person upon release, subject to those conditions as the court directs in the order for conditional release. Prior to the designation, the court shall notify the person or agency to whom conditional release is contemplated and provide the person or agency an opportunity to be heard before the court. After receiving an order entered under subsection (1)(b) of this section, the person or agency designated shall assume supervision of the person pursuant to the direction of the Psychiatric Security Review Board. The person or agency designated as supervisor shall be required to report in writing no less than once per month to the board concerning the supervised person's compliance with the conditions of release.

(3) In determining whether a person should be conditionally released, the court:

(a) May order evaluations, examinations and compliance as provided in ORS 161.336 [(4)] (3) and 161.346 [(2)] (3);

(b) Shall order that the person be examined by a local mental health program designated by the board and a report of the examination be provided to the court if each felony for which the defendant was found guilty except for insanity is a Class C felony; and

(c) Shall have as its primary concern the protection of society.

(4) Upon placing a person on conditional release, the court shall notify the board in writing of the court's conditional release order, the supervisor appointed[,] and all other conditions of release, and the person shall be on conditional release pending hearing before the board. Upon compliance with this section, the court's jurisdiction over the person is terminated.

(5) The total period of commitment or conditional release under ORS 161.315 to 161.351 may not exceed the maximum sentence provided by statute for the crime for which the person was found guilty except for insanity.

(6) An order of the court under this section is a final order appealable by the person found guilty except for insanity in accordance with ORS 19.205 (5). Notwithstanding ORS 19.255, notice

of an appeal under this section shall be served and filed within 90 days after the order appealed from is entered in the register. The person shall be entitled on appeal to suitable counsel possessing skills and experience commensurate with the nature and complexity of the case. If the person is financially eligible, suitable counsel shall be appointed in the manner provided in ORS 138.500 (1), and the compensation for counsel and costs and expenses of the person necessary to the appeal shall be determined and paid as provided in ORS 138.500.

(7) Following the entry of an order described in subsection (1) of this section, the court shall notify the person of the right to appeal and the right to a hearing before the agency exercising jurisdiction over the person in accordance with ORS 161.336 (5) and 161.341 (3).

NOTE: Corrects subsection references in (3)(a); removes serial comma in (4).

SECTION 10. ORS 163.193 is amended to read:

163.193. (1) A person commits the crime of assisting another person to commit suicide if the person knowingly sells, or otherwise transfers for consideration, any substance or object, that is capable of causing death, to another person for the purpose of assisting the other person to commit suicide.

(2) This section does not apply to a person:

(a) Acting pursuant to a court order, an advance directive or power of attorney for health care pursuant to ORS 127.505 to 127.660 or a POLST, as defined in ORS 127.663;

(b) [A *person*] Withholding or withdrawing life-sustaining procedures or artificially administered nutrition and hydration pursuant to ORS 127.505 to 127.660; or

(c) [A *person*] Acting in accordance with the provisions of ORS 127.800 to 127.897.

(3) Assisting another person to commit suicide is a Class B felony.

NOTE: Eliminates duplicative language in (2)(b) and (c).

SECTION 11. ORS 163.700 is amended to read:

163.700. (1) Except as provided in ORS 163.702, a person commits the crime of invasion of personal privacy if:

(a)(A) The person knowingly makes or records a photograph, motion picture, videotape or other visual recording of another person in a state of nudity without the consent of the person being recorded; and

(B) At the time the visual recording is made or recorded the person being recorded is in a place and circumstances where the person has a reasonable expectation of personal privacy; or

(b)(A) For the purpose of arousing or gratifying the sexual desire of the person, the person is in a location to observe another person in a state of nudity without the consent of the other person; and

(B) The other person is in a place and circumstances where the person has a reasonable expectation of personal privacy.

(2) As used in this section:

(a) "Makes or records a photograph, motion picture, videotape or other visual recording" includes, but is not limited to, making or recording or employing, authorizing, permitting, compelling or inducing another person to make or record a photograph, motion picture, videotape or other visual recording.

(b) "Nudity" means any part of the uncovered[,] or less than opaquely covered[,]:

(A) Genitals;

(B) Pubic area; or

(C) Female breast below a point immediately above the top of the areola.

(c) "Places and circumstances where the person has a reasonable expectation of personal privacy" includes, but is not limited to, a bathroom, dressing room, locker room that includes an enclosed area for dressing or showering, tanning booth and any area where a person undresses in an enclosed space that is not open to public view.

(d) "Public view" means that an area can be readily seen and that a person within the area can be distinguished by normal unaided vision when viewed from a public place as defined in ORS 161.015.

(3) Invasion of personal privacy is a Class A misdemeanor.

NOTE: Removes extraneous punctuation in (2)(b).

SECTION 12. ORS 173.763 is amended to read:

173.763. (1)(a) The Legislative Administration Committee in conjunction with the Legislative Counsel Committee shall, with the advice of the President of the Senate, through the Secretary of the Senate, and the Speaker of the House of Representatives, through the Chief Clerk of the House of Representatives, make all of the following information available to the public and members of the Legislative Assembly in electronic form:

(A) The legislative calendar, the schedule of legislative committee hearings, a list of matters pending on the floors of both houses of the Legislative Assembly and a list of the committees of the Legislative Assembly and their members.

(B) The text of each bill introduced in each current legislative session, including each amended and enrolled form of the bill.

(C) The bill history of each bill introduced [*and amended*] in each current legislative session.

(D) The bill status of each bill introduced [*and amended*] in each current legislative session.

(E) All vote information concerning each bill in each current legislative session.

(F) Any veto message concerning a bill in each current legislative session.

(G) The Oregon Constitution.

(H) All Oregon Laws enacted on and after September 9, 1995.

(I) The Constitution of the United States.

(b) The Legislative Administration Committee, in its discretion, may make available in electronic form to the public and members of the Legislative Assembly staff measure summaries for each bill in a current legislative session.

(2)(a) The information identified in subsection (1) of this section shall be made available to the public [*through the largest nonproprietary, nonprofit cooperative public computer network*] **on the Internet**. The information shall be made available in one or more formats and by one or more means in order to provide the general public in this state with the greatest feasible access. Any person who accesses the information may access all or any part of the information. The information may also be made available by any other means that would facilitate public access to the information.

(b) Except as provided in paragraph (c) of this subsection, the Legislative Administration Committee shall determine the most cost-effective formats and procedures for the timely release of the information in electronic form.

(c) Pursuant to ORS 171.275, the Legislative Counsel Committee, in its discretion, may authorize the release of the text of Oregon Revised Statutes in electronic form.

(3) Any documentation that describes the electronic digital formats of the information identified in subsection (1) of this section and is available to the public shall be made available [*through the computer network specified in subsection (2) of this section*] **on the Internet**.

(4) Personal information concerning a person who accesses the information identified in subsection (1) of this section may be maintained only for the purpose of providing service to the person.

(5) [*No*] A fee or other charge may **not** be imposed by the Legislative Administration Committee as a condition of accessing the information identified in subsection (1) of this section [*through the computer network specified in subsection (2) of this section*] **on the Internet**.

(6) [*No*] Action taken pursuant to this section [*shall*] **may not** be deemed to alter or relinquish any copyright or other proprietary interest or entitlement of the State of Oregon relative to any of the information made available pursuant to subsection (1) or (2)(c) of this section.

NOTE: Removes misleading words in (1)(a)(C) and (D); modernizes word choice in (2)(a), (3), (5) and (6).

SECTION 13. ORS 173.766 is amended to read:

173.766. (1) The Legislative Administration Committee shall make available to each member of the Legislative Assembly an electronic mail address accessible by Oregonians [*through the largest nonproprietary, nonprofit cooperative public computer network*] **on the Internet**.

(2) All state agencies shall cooperate with the Legislative Administration Committee in the implementation of subsection (1) of this section and ORS 171.795, 173.763 and 183.365.

(3) If the Legislative Administration Committee makes available to each member of the Legislative Assembly a webpage on the website of the Legislative Assembly, employees of the committee shall post material on a member's webpage or install or maintain links from the member's webpage to other websites in the manner directed by the member. If the posting of material or installation or maintenance of a link results in a violation of law:

(a) The member who directed the posting of material or installation or maintenance of the link is liable for the violation; and

(b) An employee of the committee who posts the material or installs or maintains the link at the direction of a member is not liable for the violation.

(4) Subsection (3) of this section does not authorize the posting of material or the installation or maintenance of any link that is prohibited by any other law.

NOTE: Modernizes word choice in (1).

SECTION 14. ORS 174.120 is amended to read:

174.120. (1) The time within which an act is to be done, as provided in the civil and criminal procedure statutes, is computed by excluding the first day and including the last **day**, unless the last day falls upon any legal holiday or on Saturday, in which case the last day is also excluded.

(2) For the purposes of [*the*] determining whether a person has complied with a statutory time limitation governing an act to be performed in a circuit court, the Oregon Tax Court, the Court of Appeals or the Supreme Court, the time prescribed by law for the performance of the act does not include the day on which the specified period begins to run. The designated period does include the last day unless the last day is:

(a) A legal holiday or Saturday;

(b) A day on which the court is closed for the purpose of filing pleadings and other documents;

(c) A day on which the court is closed by order of the Chief Justice, to the extent provided by the order; or

(d) A day on which the court is closed before the end of the normal hours during which pleadings and other documents may be filed.

(3) If the last day of a designated period is excluded under the provisions of subsection (2) of this section, the act must be performed on the next day that the court is open for the purpose of filing pleadings and other documents.

(4) The provisions of subsections (2) and (3) of this section apply to time limitations established by statutes of limitation and other procedural statutes governing civil and criminal proceedings.

(5) If a statute of limitation or other procedural statute governing civil [*and*] **or** criminal proceedings provides that an act be done within one or more years, the time for performing the act is computed in calendar years. If the specified period begins to run on a date other than February 29, the act must be done on or before the same date in the calendar year in which the specified period ends as the date in the calendar year in which the specified period began to run. If the specified period of time begins to run on February 29, the act must be done on or before February 28 of the calendar year in which the specified period ends.

NOTE: Polishes syntax in (1), (2) and (5).

SECTION 15. ORS 174.540 is amended to read:

174.540. Title heads, chapter heads, division heads, section and subsection heads or titles[,] and explanatory notes [*and cross-references*], in the statute laws described in ORS 174.510 (1) and in parts of Oregon Revised Statutes, do not constitute any part of the law.

NOTE: Removes outdated element.

SECTION 16. ORS 176.260 is amended to read:

176.260. (1) The Law Enforcement Medal of Honor is established. Upon nomination by the Governor's Commission on the Law Enforcement Medal of Honor established under ORS 176.262, the Governor or the Governor's designee may award the medal in the name of the state to a law enforcement officer who has been distinguished by exceptionally honorable and meritorious conduct.

The medal may be awarded posthumously to a representative of the deceased law enforcement officer.

(2) The medal shall be bronze and consist of a police shield overlaid by a sheriff's star with the seal of the State of Oregon in the center and the words "Law Enforcement Medal of Honor" within the design. The medal shall be suspended from a ring that is attached to a navy blue ribbon with a gold edge. *[The recipient of the medal may choose the color of the ribbon.]* The reverse side of the medal shall be inscribed with the words "For exceptionally honorable and meritorious conduct in performing services as a law enforcement officer."

NOTE: In (2), reflects removal of color choice in amendments by section 2, chapter 434, Oregon Laws 2011.

SECTION 17. ORS 181.610, as amended by section 22, chapter 54, Oregon Laws 2012, section 13, chapter 67, Oregon Laws 2012, and section 4, chapter 88, Oregon Laws 2012, is amended to read: 181.610. **As used** in ORS 181.610 to 181.712, unless the context requires otherwise:

(1) "Abuse" has the meaning given *[the]* **that** term in ORS 107.705.

(2) "Board" means the Board on Public Safety Standards and Training appointed pursuant to ORS 181.620.

(3) "Certified reserve officer" means a reserve officer who has been designated by a local law enforcement unit, has received training necessary for certification and has met the minimum standards and training requirements established under ORS 181.640.

(4) "Commissioned" means being authorized to perform various acts or duties of a police officer or certified reserve officer and acting under the supervision and responsibility of a county sheriff or as otherwise provided by law.

(5) "Corrections officer" means an officer or member employed full-time by a law enforcement unit who:

(a) Is charged with and primarily performs the duty of custody, control or supervision of individuals convicted of or arrested for a criminal offense and confined in a place of incarceration or detention other than a place used exclusively for incarceration or detention of juveniles; or

(b) Has been certified as a corrections officer described in paragraph (a) of this subsection and has supervisory or management authority for corrections officers described in paragraph (a) of this subsection.

(6) "Department" means the Department of Public Safety Standards and Training.

(7) "Director" means the Director of the Department of Public Safety Standards and Training.

(8) "Domestic violence" means abuse between family or household members.

(9) "Emergency medical dispatcher" means a person who has responsibility to process requests for medical assistance from the public or to dispatch medical care providers.

(10) "Family or household members" has the meaning given that term in ORS 107.705.

(11) "Fire service professional" means a paid or volunteer firefighter, an officer or a member of a public or private fire protection agency that is engaged primarily in fire investigation, fire prevention, fire safety, fire control or fire suppression or providing emergency medical services, light and heavy rescue services, search and rescue services or hazardous materials incident response. "Fire service professional" does not mean forest fire protection agency personnel.

(12) "Law enforcement unit" means:

(a) A police force or organization of the state, a city, university that has established a police department under ORS 352.383, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government as defined in section 1, chapter 644, Oregon Laws 2011, that employs authorized tribal police officers as defined in section 1, chapter 644, Oregon Laws 2011, the Criminal Justice Division of the Department of Justice, the Department of Corrections, the Oregon State Lottery Commission, the Security and Emergency Preparedness Office of the Judicial Department or common carrier railroad the primary duty of which, as prescribed by law, ordinance or directive, is one or more of the following:

(A) Detecting crime and enforcing the criminal laws of this state or laws or ordinances relating to airport security;

(B) The custody, control or supervision of individuals convicted of or arrested for a criminal offense and confined to a place of incarceration or detention other than a place used exclusively for incarceration or detention of juveniles; or

(C) The control, supervision and reformation of adult offenders placed on parole or sentenced to probation and investigation of adult offenders on parole or probation or being considered for parole or probation;

(b) A police force or organization of a private entity with a population of more than 1,000 residents in an unincorporated area the employees of which are commissioned by a county sheriff;

(c) A district attorney's office;

(d) The Oregon Liquor Control Commission with regard to liquor enforcement inspectors; or

(e) A humane investigation agency as defined in section 1, chapter 67, Oregon Laws 2012.

(13) "Liquor enforcement inspector" has the meaning given that term in ORS 471.001.

(14) "Parole and probation officer" means:

(a) An officer who is employed full-time by the Department of Corrections, a county or a court and who is charged with and performs the duty of:

(A) Community protection by controlling, investigating, supervising and providing or making referrals to reformatory services for adult parolees or probationers or offenders on post-prison supervision; or

(B) Investigating adult offenders on parole or probation or being considered for parole or probation; or

(b) An officer who:

(A) Is certified and has been employed as a full-time parole and probation officer for more than one year;

(B) Is employed part-time by the Department of Corrections, a county or a court; and

(C) Is charged with and performs the duty of:

(i) Community protection by controlling, investigating, supervising and providing or making referrals to reformatory services for adult parolees or probationers or offenders on post-prison supervision; or

(ii) Investigating adult offenders on parole or probation or being considered for parole or probation.

(15) "Police officer" means:

(a) An officer, member or employee of a law enforcement unit employed full-time as a peace officer who is:

(A) Commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government as defined in section 1, chapter 644, Oregon Laws 2011, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, a university that has established a police department under ORS 352.383, the Governor or the Department of State Police; and

(B) Responsible for enforcing the criminal laws of this state or laws or ordinances relating to airport security;

(b) An investigator of a district attorney's office if the investigator is or has been certified as a peace officer in this or another state[, *an authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws 2011, or*];

(c) A humane special agent commissioned under section 1, chapter 67, Oregon Laws 2012; [or]

[c] (d) An individual member of the judicial security personnel [*identified pursuant to*] **appointed under** ORS 1.177 who is trained pursuant to section 3, chapter 88, Oregon Laws 2012[.]; **or**

(e) **An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws 2011.**

(16) “Public or private safety agency” means a unit of state or local government, a special purpose district or a private firm that provides, or has authority to provide, fire fighting, police, ambulance or emergency medical services.

(17) “Public safety personnel” and “public safety officer” include corrections officers, youth correction officers, emergency medical dispatchers, parole and probation officers, police officers, certified reserve officers, telecommunicators, liquor enforcement inspectors and fire service professionals.

(18) “Reserve officer” means an officer or member of a law enforcement unit who is:

(a) A volunteer or employed less than full-time as a peace officer commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government as defined in section 1, chapter 644, Oregon Laws 2011, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, a university that has established a police department under ORS 352.383, the Governor or the Department of State Police;

(b) Armed with a firearm; and

(c) Responsible for enforcing the criminal laws and traffic laws of this state or laws or ordinances relating to airport security.

(19) “Telecommunicator” means a person employed as an emergency telephone worker as defined in ORS 243.736 or a public safety dispatcher whose primary duties are receiving, processing and transmitting public safety information received through a 9-1-1 emergency reporting system as defined in ORS 403.105.

(20) “Youth correction officer” means an employee of the Oregon Youth Authority who is charged with and primarily performs the duty of custody, control or supervision of youth offenders confined in a youth correction facility.

NOTE: Conforms syntax in lead-in and (1) to legislative style; reformats (15) for clarity; conforms terminology in (15)(d) to language in ORS 1.177 (see chapter 107, Oregon Laws 2012).

SECTION 18. ORS 181.610, as amended by section 50, chapter 644, Oregon Laws 2011, section 23, chapter 54, Oregon Laws 2012, section 14, chapter 67, Oregon Laws 2012, and section 5, chapter 88, Oregon Laws 2012, is amended to read:

181.610. **As used** in ORS 181.610 to 181.712, unless the context requires otherwise:

(1) “Abuse” has the meaning given *[the]* **that** term in ORS 107.705.

(2) “Board” means the Board on Public Safety Standards and Training appointed pursuant to ORS 181.620.

(3) “Certified reserve officer” means a reserve officer who has been designated by a local law enforcement unit, has received training necessary for certification and has met the minimum standards and training requirements established under ORS 181.640.

(4) “Commissioned” means being authorized to perform various acts or duties of a police officer or certified reserve officer and acting under the supervision and responsibility of a county sheriff or as otherwise provided by law.

(5) “Corrections officer” means an officer or member employed full-time by a law enforcement unit who:

(a) Is charged with and primarily performs the duty of custody, control or supervision of individuals convicted of or arrested for a criminal offense and confined in a place of incarceration or detention other than a place used exclusively for incarceration or detention of juveniles; or

(b) Has been certified as a corrections officer described in paragraph (a) of this subsection and has supervisory or management authority for corrections officers described in paragraph (a) of this subsection.

(6) “Department” means the Department of Public Safety Standards and Training.

(7) “Director” means the Director of the Department of Public Safety Standards and Training.

(8) “Domestic violence” means abuse between family or household members.

(9) “Emergency medical dispatcher” means a person who has responsibility to process requests for medical assistance from the public or to dispatch medical care providers.

(10) "Family or household members" has the meaning given that term in ORS 107.705.

(11) "Fire service professional" means a paid or volunteer firefighter, an officer or a member of a public or private fire protection agency that is engaged primarily in fire investigation, fire prevention, fire safety, fire control or fire suppression or providing emergency medical services, light and heavy rescue services, search and rescue services or hazardous materials incident response. "Fire service professional" does not mean forest fire protection agency personnel.

(12) "Law enforcement unit" means:

(a) A police force or organization of the state, a city, university that has established a police department under ORS 352.383, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government, the Criminal Justice Division of the Department of Justice, the Department of Corrections, the Oregon State Lottery Commission, the Security and Emergency Preparedness Office of the Judicial Department or common carrier railroad the primary duty of which, as prescribed by law, ordinance or directive, is one or more of the following:

(A) Detecting crime and enforcing the criminal laws of this state or laws or ordinances relating to airport security;

(B) The custody, control or supervision of individuals convicted of or arrested for a criminal offense and confined to a place of incarceration or detention other than a place used exclusively for incarceration or detention of juveniles; or

(C) The control, supervision and reformation of adult offenders placed on parole or sentenced to probation and investigation of adult offenders on parole or probation or being considered for parole or probation;

(b) A police force or organization of a private entity with a population of more than 1,000 residents in an unincorporated area the employees of which are commissioned by a county sheriff;

(c) A district attorney's office;

(d) The Oregon Liquor Control Commission with regard to liquor enforcement inspectors; or

(e) A humane investigation agency as defined in section 1, chapter 67, Oregon Laws 2012.

(13) "Liquor enforcement inspector" has the meaning given that term in ORS 471.001.

(14) "Parole and probation officer" means:

(a) An officer who is employed full-time by the Department of Corrections, a county or a court and who is charged with and performs the duty of:

(A) Community protection by controlling, investigating, supervising and providing or making referrals to reformatory services for adult parolees or probationers or offenders on post-prison supervision; or

(B) Investigating adult offenders on parole or probation or being considered for parole or probation; or

(b) An officer who:

(A) Is certified and has been employed as a full-time parole and probation officer for more than one year;

(B) Is employed part-time by the Department of Corrections, a county or a court; and

(C) Is charged with and performs the duty of:

(i) Community protection by controlling, investigating, supervising and providing or making referrals to reformatory services for adult parolees or probationers or offenders on post-prison supervision; or

(ii) Investigating adult offenders on parole or probation or being considered for parole or probation.

(15) "Police officer" means:

(a) An officer, member or employee of a law enforcement unit employed full-time as a peace officer who is:

(A) Commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, a

university that has established a police department under ORS 352.383, the Governor or the Department of State Police; and

(B) Responsible for enforcing the criminal laws of this state or laws or ordinances relating to airport security;

(b) An investigator of a district attorney's office if the investigator is or has been certified as a peace officer in this or another state *[or]*;

(c) A humane special agent commissioned under section 1, chapter 67, Oregon Laws 2012; or

[(c)] (d) An individual member of the judicial security personnel *[identified pursuant to]* **appointed under** ORS 1.177 who is trained pursuant to section 3, chapter 88, Oregon Laws 2012.

(16) "Public or private safety agency" means a unit of state or local government, a special purpose district or a private firm that provides, or has authority to provide, fire fighting, police, ambulance or emergency medical services.

(17) "Public safety personnel" and "public safety officer" include corrections officers, youth correction officers, emergency medical dispatchers, parole and probation officers, police officers, certified reserve officers, telecommunicators, liquor enforcement inspectors and fire service professionals.

(18) "Reserve officer" means an officer or member of a law enforcement unit who is:

(a) A volunteer or employed less than full-time as a peace officer commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, a university that has established a police department under ORS 352.383, the Governor or the Department of State Police;

(b) Armed with a firearm; and

(c) Responsible for enforcing the criminal laws and traffic laws of this state or laws or ordinances relating to airport security.

(19) "Telecommunicator" means a person employed as an emergency telephone worker as defined in ORS 243.736 or a public safety dispatcher whose primary duties are receiving, processing and transmitting public safety information received through a 9-1-1 emergency reporting system as defined in ORS 403.105.

(20) "Youth correction officer" means an employee of the Oregon Youth Authority who is charged with and primarily performs the duty of custody, control or supervision of youth offenders confined in a youth correction facility.

NOTE: Conforms syntax in lead-in and (1) to legislative style; reformats (15) for clarity; conforms terminology in (15)(d) to language in ORS 1.177 (see chapter 107, Oregon Laws 2012).

SECTION 19. Section 3, chapter 88, Oregon Laws 2012, is amended to read:

Sec. 3. (1) Upon request of the Security and Emergency Preparedness Office of the Judicial Department, the Department of Public Safety Standards and Training shall certify individual members of the judicial security personnel *[identified pursuant to]* **appointed under** ORS 1.177 as being qualified in the same manner as police officers pursuant to ORS 181.640.

(2) The provisions of ORS 181.610 to 181.712 relating to the training and certification of police officers apply to individual members of the judicial security personnel trained pursuant to subsection (1) of this section.

(3) Notwithstanding any other provision of law, the Security and Emergency Preparedness Office of the Judicial Department shall bear the expense of training pursuant to subsection (1) of this section.

NOTE: Conforms terminology in (1) to language in ORS 1.177 (see chapter 107, Oregon Laws 2012).

SECTION 20. ORS 197.649 is amended to read:

197.649. The Land Conservation and Development Commission may establish by rule fees to cover the cost of notice given to persons by the Director of the Department of Land Conservation and Development under ORS 197.610 *[(1)]* (4) and 197.615 (3).

NOTE: Corrects subsection reference.

SECTION 21. ORS 200.065 is amended to read:

200.065. (1) It shall be unlawful for any person fraudulently to obtain or retain or attempt to obtain or retain or to aid another person fraudulently to obtain or retain or attempt to obtain or retain certification as a disadvantaged, minority, women or emerging small business enterprise.

(2) It shall be unlawful knowingly to make a false claim that any person is qualified for certification or is certified under ORS 200.055 for the purpose of gaining a contract or subcontract or other benefit.

(3) The public contracting agency may withhold payment, **may** suspend or terminate the contract and may impose on any person a civil penalty not to 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 penalty shall be paid to the Office for Minority, Women and Emerging Small Business.

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

(5) An affected public contracting agency or the department **may** disqualify any person found to have violated subsection (1) or (2) of this section or who admits to such violation under oath during the course of an investigation from bidding or participating in any public contract for a period of time specified by the agency or department, not to exceed three years. 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.

NOTE: Supplies missing word in (3); in (5), corrects syntax gone astray in amendments by section 139, chapter 830, Oregon Laws 2009.

SECTION 22. ORS 215.211 is amended to read:

215.211. (1) If a person concludes that more detailed soils information than that contained in the *[Internet soil survey of soil data and information produced by the National Cooperative Soil Survey]* **Web Soil Survey** operated by the **United States** Natural Resources Conservation Service *[of the United States Department of Agriculture]* would assist a county to make a better determination of whether land qualifies as agricultural land, the person must request that the Department of Land Conservation and Development arrange for an assessment of the capability of the land by a professional soil classifier who is:

- (a) Certified by and in good standing with the Soil Science Society of America; and
- (b) Chosen by the person.

(2) A soils assessment produced under this section is not a public record, as defined in ORS 192.410, unless the person requesting the assessment utilizes the assessment in a land use proceeding. If the person decides to utilize a soils assessment produced under this section in a land use proceeding, the person shall inform the Department of Land Conservation and Development and consent to the release by the department of certified copies of all assessments produced under this section regarding the land to the local government conducting the land use proceeding. The department:

- (a) Shall review soils assessments prepared under this section.
 - (b) May not disclose a soils assessment prior to its utilization in a land use proceeding as described in this subsection without written consent of the person paying the fee for the assessment.
 - (c) Shall release to the local government conducting a land use proceeding all soils assessments produced under this section regarding land to which the land use proceeding applies.
- (3) Before arranging for a soils assessment under this section, the department shall charge and collect from the person requesting the assessment a fee in an amount intended to meet the costs of the department to assess the soils and administer this section.

(4) The department shall deposit fees collected under this section in the Soils Assessment Fund established under ORS 215.212.

(5) This section authorizes a person to obtain additional information for use in the determination of whether land qualifies as agricultural land, but this section does not otherwise affect the process by which a county determines whether land qualifies as agricultural land.

NOTE: Updates and simplifies terminology in (1).

SECTION 23. ORS 255.235 is amended to read:

255.235. (1) A candidate for election as a member of a district board shall be nominated by filing with the elections officer either:

(a) A petition for nomination signed by at least 25 electors, or 10 percent of the electors, residing in the election district for the office, whichever number is less; or

(b) A declaration of candidacy accompanied by a filing fee of \$10.

(2) A petition for nomination or a declaration of candidacy shall be filed with the elections officer not sooner than the 40th day before the deadline specified in paragraph (a) or (b) of this subsection and:

(a) Not later than the 61st day before the date of the district election if the election is a regular district election or the first election at which members of the district board are elected.

(b) Not later than the 70th day before the date of the district election if the election is held on the date of a primary election or general election.

(3) A nominating petition or declaration of candidacy shall contain the information specified in ORS 249.031.

(4) In a district in which a position or zone number is assigned to each office on the district board [*or local school committee*], each petition for nomination or declaration of candidacy for election to the district board [*or local school committee*] shall state the position or zone number of the office to which the candidate seeks election.

(5) The provisions of ORS 249.009 (1)(b) and 249.061 [*shall*] **do** not apply to nominating petitions filed under this section.

(6) A nominee for election to the district board may withdraw the nomination not later than 5 p.m. of the last day specified for filing a petition or declaration under this section by filing with the elections officer a written withdrawal of candidacy. The withdrawal shall be signed by the nominee and state the reasons for withdrawal.

NOTE: In (4), reflects elimination of local school committees by chapter 313, Oregon Laws 2011; updates syntax in (5).

SECTION 24. ORS 258.280 is amended to read:

258.280. (1) The Secretary of State shall order a full recount of the votes cast for nomination or election to a public office for which the Secretary of State is the filing officer, and the county clerk who conducted the election shall order a full recount of the votes cast for nomination or election to any other public office if the canvass of votes of the election reveals that:

(a) Two or more candidates for that nomination or office have an equal and the highest number of votes; or

(b) The difference in the number of votes cast for a candidate apparently nominated or elected to the office and the votes cast for the closest apparently defeated opponent is not more than one-fifth of one percent of the total votes for both candidates.

(2)(a) Unless otherwise provided by a home rule charter, at an election described in ORS 249.088, the Secretary of State shall order a full recount of the votes cast for nomination or election to a nonpartisan office for which the Secretary of State is the filing officer, and the county clerk who conducted the election shall order a full recount of the votes cast for nomination or election to any other nonpartisan office, if the canvass of votes of the election reveals that the number of votes cast for a candidate differs from a majority of votes cast for the office by not more than one-fifth of one percent of the total votes cast for the office.

(b) This subsection does not apply to the office of sheriff, the office of county clerk, the office of county treasurer or a candidate to fill a vacancy, as described in ORS [249.088] **249.091**.

(3) The cost of a full recount conducted under this section shall be paid by the county for a county office, by the city for a city office, by the special district for a special district office or by the state for any other office.

NOTE: Corrects reference in (2)(b).

SECTION 25. ORS 273.554 is amended to read:

273.554. (1) For the purpose of providing for the administration of the South Slough National Estuarine Research Reserve in a manner consistent with the provisions of ORS 273.553, there is created the South Slough National Estuarine Research Reserve Management Commission. The commission shall have the authority, in accordance with the policies formulated by the State Land Board, to:

(a) Conduct the day-to-day operation and management of the South Slough National Estuarine Research Reserve with the administrative support of the Department of State Lands;

(b) Appoint a manager and other staff necessary to carry out this section; and

(c) Apply for, receive and expend moneys from the federal government and from this state or any agency thereof for the purpose of carrying out this section.

(2) In accordance with applicable provisions of ORS chapter 183, the commission may adopt rules necessary to:

(a) Carry out the commission's responsibilities pursuant to ORS 273.553; and

(b) Implement a system of fees to recover the costs of carrying out the management established in ORS 273.553, including fees for use of facilities at the reserve, fees for research activities conducted at the reserve, visitor activities fees and parking fees.

(3) The commission shall consist of nine members appointed by the Governor as follows:

(a) A representative of common schools in the area of the reserve;

(b) One authorized representative of the Coos County Board of Commissioners;

(c) One authorized representative of the governing body of the **Oregon International** Port of Coos Bay;

(d) The Director of the Department of State Lands or a designee thereof;

(e) One authorized representative of the federal Office of Ocean and Coastal Resource Management;

(f) Two representatives with an interest in marine science, one from the University of Oregon Institute of Marine Biology at Charleston and one from Oregon State University;

(g) One member selected from the general public at large; and

(h) One representative of Oregon Indian tribes appointed after consultation with the Commission on Indian Services.

(4) The members appointed by the Governor under subsection (3)(a), (f), (g) and (h) of this section shall serve for terms of four years and members appointed under subsection (3)(b) and (c) of this section shall serve for terms of two years. The Director of the Department of State Lands or the designee of the director, if appointed in place of the director, shall serve as the permanent chairperson of the commission. The commission shall select one of its members as vice chairperson. The chairperson and vice chairperson shall have duties and powers necessary for the performance of the functions of such offices as the commission determines. The vice chairperson shall act as the chairperson of the commission in the absence of the chairperson. The vice chairperson shall serve for a term of one year, subject to reelection by the commission.

(5) Each member of the commission shall have one vote, except that the member who is the authorized representative of the federal Office of Ocean and Coastal Resource Management shall be a nonvoting member. A majority of the commission constitutes a quorum for the transaction of business.

(6) Members of the commission are not entitled to compensation, but in the discretion of the State Land Board may be reimbursed for actual and necessary travel and other expenses incurred by them in the performance of their official duties, subject to laws regulating travel and other expenses of state officers and employees.

NOTE: Corrects official title in (3)(c).

SECTION 26. ORS 295.046, as amended by section 15, chapter 101, Oregon Laws 2010, and section 6, chapter 477, Oregon Laws 2011, is amended to read:

295.046. (1) A depository may not accept a deposit of public funds if the deposit would cause the aggregate of public funds deposits that any one public official makes in the depository to exceed at any time the depository's net worth. If a depository's net worth is reduced, the depository may allow public funds on deposit in excess of the reduced net worth to remain if the depository deposits with the depository's custodian eligible securities valued at market value in an amount at least equal to the amount of the excess public funds deposits. If the additional securities required by this section are not deposited with the custodian, the depository shall permit the public official to withdraw deposits prior to maturity, including accrued interest, in accordance with applicable statutes and governmental regulations.

(2) The limitations of subsection (1) of this section do not apply to:

(a) Public funds deposits a depository holds in a certificate of deposit or time deposit under ORS 295.004 (1); or

(b) Public funds that an Oregon depository arranges to deposit into an insured deposit account under ORS 295.004 (2).

NOTE: Corrects syntax and structure in (2).

SECTION 27. ORS 329.704 is amended to read:

329.704. (1) Nothing in this section shall interfere with the duties, responsibilities and rights of duly elected school district boards. There shall be established at each school a 21st Century Schools Council. The duties of a 21st Century Schools Council shall include but not be limited to:

(a) The development of plans to improve the professional growth of the school's staff;

(b) The improvement of the school's instructional program;

(c) The development and coordination of plans for the implementation of programs under this chapter at the school; and

(d) The administration of grants-in-aid for the professional development of teachers and classified district employees.

(2) A 21st Century Schools Council shall be composed of teachers, parents, classified employees and principals or the principal's designee, as follows:

(a) Not more than half of the members shall be teachers;

(b) Not more than half of the members shall be parents of students attending that school;

(c) At least one member shall be a classified employee; and

(d) One member shall be the principal of the building or the principal's designee.

(3) In addition, other members may be as the school district shall designate, including but not limited to [*local school committee members*,] business leaders, students and members of the community at large.

(4) Members of a 21st Century Schools Council shall be selected as follows:

(a) Teachers shall be licensed teachers elected by licensed teachers at the school site;

(b) Classified employees shall be elected by classified employees at the school site;

(c) Parents shall be selected by parents of students attending the school; and

(d) Other representatives shall be selected by the council.

(5) If a school district board determines that a school site is unable to fulfill the requirements of this section or if the needs of a school site require a different composition, the school district board shall establish the 21st Century Schools Council in a manner that best meets the educational needs of the district.

(6) All 21st Century Schools Council meetings shall be subject to the open meetings law pursuant to ORS 192.610 to 192.690.

(7) A school district may establish a district site committee to assist in the administration of grants or in the district-wide coordination of programs.

NOTE: In (3), reflects elimination of local school committees by chapter 313, Oregon Laws 2011.

SECTION 28. ORS 332.118 is amended to read:

332.118. (1) Unless specifically provided otherwise, ORS chapter 255 governs the following:

- (a) The nomination and election of school directors [*and local school committee members*].
- (b) The conduct of all school district elections.
- (2) ORS 249.865 to 249.877 govern the recall of school board members [*and local school committee members*].

(3) The Secretary of State has supervising authority over all elections conducted by school districts and over elections conducted by a district boundary board.

(4) A petition for a proposed change or merger under ORS 330.095, a remonstrance petition under ORS 330.101, a petition for zoning under ORS 332.128 or a petition to lengthen the course of study under ORS 335.495 [*shall*] **may** not be circulated for signatures until the prospective petition has been filed with the county clerk. The prospective petition [*shall*] **must** designate the names and residence addresses of not more than three persons as chief petitioner. The authority of the Secretary of State and the application of the election laws commence when the prospective petition is filed with the county clerk. The filing of the prospective petition is to be treated like a prospective petition for an initiative, referendum or recall. Except as otherwise provided in ORS 330.080 to 330.113, ORS chapter 255 applies to the procedures applicable to petitions described in this subsection and the elections held on the petitions.

NOTE: In (1)(a) and (2), reflects elimination of local school committees by chapter 313, Oregon Laws 2011; updates word choice in (4).

SECTION 29. ORS 334.125 is amended to read:

334.125. (1) The education service district is a body corporate.

(2) The education service district board is authorized to transact all business coming within the jurisdiction of the education service district and may sue and be sued.

(3) The education service district board shall perform all duties required by law, including but not limited to:

(a) Distribution of such school funds as it is empowered to apportion;

(b) Conduct of audits;

[(c) *Duties as district boundary board;*]

[(d)] (c) Budget and tax levying duties, including the levying of taxes under ORS 280.060;

[(e)] (d) Contracting a bonded indebtedness and levying direct ad valorem taxes on all taxable property within the education service district in the manner that component school districts are authorized to issue bonds and levy taxes under ORS 328.205 to 328.304 and other laws applicable to the issuance of bonds and levying of taxes by school districts; and

[(f)] (e) Creating a county education bond district under ORS 328.304 from a county within the district.

(4) In addition to its duties under subsection (3) of this section, an education service district board:

(a) May provide services required by the local service plan developed pursuant to ORS 334.175;

(b) May provide funds to a component school district to provide services required by the local service plan in lieu of the component school district receiving services from the education service district;

(c) Shall provide funds as specified in ORS 327.019 (9) to a school district located within the territory of the education service district that has withdrawn from the education service district as provided in ORS 334.015; and

(d) For the purpose of providing services consistent with the local service plan, may enter into contracts with school districts that have withdrawn from the education service district as provided in ORS 334.015 or that are located outside the territory of the education service district.

(5) The education service district board may employ and fix the compensation of such personnel as it considers necessary for carrying out duties of the board.

(6) In carrying out its duties, the education service district board:

(a) May locate, buy, accept by gift or lease such land, buildings and facilities as may be required for district purposes. Leases authorized by this section may be for a term of up to 30 years and

include lease-purchase agreements [*whereunder*] **under which** the district may acquire ownership of the leased property.

(b) May acquire personal property by a lease-purchase agreement or contract of purchase for a term exceeding one year. A lease-purchase agreement is one in which the rent payable by the district is expressly agreed to have been established to reflect the savings resulting from the exemption from taxation, and the district is entitled to ownership of the property at a nominal or other price [*which*] **that** is stated or determinable by the terms of the agreement and was not intended to reflect the true value of the property.

(c) May lease property or sell and convey property of the district as the board considers unnecessary to its purposes.

(d) May purchase relocatable structures in installment transactions in which deferred installments of the purchase price are payable over not more than 10 years from the date of delivery of the property to the district and are secured by a security interest in the property. The transactions may take the form of, but are not limited to, lease-purchase agreements.

(e) May accept money or property donated for the use or benefit of the district and use the money or property for the purpose for which it was donated.

(7) The education service district board may adopt rules it considers necessary to carry out the duties of the board.

(8) The education service district may contract with public and private entities for service delivery.

(9)(a) The education service district shall work cooperatively with component school districts and review periodically with component school districts the operations of component school districts and shall submit to the component school districts plans for operations that achieve economies and efficiencies through consolidation of various operations of all or some of the districts. The education service district and its component school districts shall submit an annual report on the effectiveness of the consolidation of operations to the State Board of Education.

(b) As used in this subsection, "operations" means services involving transportation, payroll, student records, auditing, legal services, insurance, printing, investment and other similar services.

NOTE: Removes outdated reference in (3)(c) to education service district board as district boundary board (see chapter 391, Oregon Laws 2011); updates syntax in (6)(a) and (b).

SECTION 30. Section 8, chapter 59, Oregon Laws 2010, is repealed.

NOTE: Repeals duplicative provision (see ORS 334.550).

SECTION 31. ORS 336.585 is amended to read:

336.585. (1) As used in this section:

(a) "Juvenile Detention Education Program" means the program defined in ORS 326.695.

(b) "Resident district" means the school district in which the parents or legal guardian, if any, of a child resided at the time of the child's enrollment in the Juvenile Detention Education Program. If the child has no parents or legal guardian, or none can be located, the resident district is the school district in which the child is physically located.

(2) The Department of Education shall provide or cause to be provided appropriate education for children enrolled in an educational program under the Juvenile Detention Education Program. The Superintendent of Public Instruction may contract with a school district or education service district to provide or cause to be provided appropriate education to children enrolled in an educational program under the Juvenile Detention Education Program.

(3) The superintendent shall pay the costs of providing education to children enrolled in an educational program under the Juvenile Detention Education Program from the State School Fund grant allocated for that purpose under ORS 327.026.

(4) The State Board of Education shall adopt by rule standards to be applied to the operation of the Juvenile Detention Education Program, including standards that allow a school district or an education service district under contract with the superintendent to:

(a) Implement an assessment system as provided by ORS 329.485 (3).

(b) Administer a nationally normed assessment as provided by ORS 329.488.

(c) Participate in the Oregon Teacher Corps program created by ORS 329.757 to 329.780.
(d) Participate in the beginning teacher and administrator mentorship program established by ORS 329.788 to 329.820.

(e) Receive funds under ORS chapter 329 [as provided by ORS 329.875].

(5) The superintendent shall ensure that the resident district of each child enrolled in an educational program under the Juvenile Detention Education Program is notified, if the resident district can be reasonably identified. The purposes of the notification include, but are not limited to:

- (a) Removing the child from the resident district's census;
- (b) Facilitating transfers of the child's educational records; and
- (c) Facilitating planning for the child's possible return to the resident district.

NOTE: Deletes reference in (4)(e) to repealed statute.

SECTION 32. ORS 336.590 is amended to read:

336.590. (1) As used in this section, "Youth Corrections Education Program" means the program defined in ORS 326.695.

(2) The Department of Education shall provide or cause to be provided appropriate education for children enrolled in an educational program under the Youth Corrections Education Program. The Superintendent of Public Instruction may contract with a school district or education service district to provide or cause to be provided appropriate education to children enrolled in an educational program under the Youth Corrections Education Program.

(3) The superintendent shall pay the costs of providing education to children enrolled in an educational program under the Youth Corrections Education Program from the State School Fund grant allocated for that purpose under ORS 327.026.

(4) The State Board of Education shall adopt by rule standards to be applied to the operation of the Youth Corrections Education Program, including standards that allow a school district or an education service district under contract with the superintendent to:

(a) Award high school diplomas, modified diplomas, extended diplomas and alternative certificates as provided by ORS 329.451 and 339.877.

(b) Implement an assessment system as provided by ORS 329.485 (3).

(c) Administer a nationally normed assessment as provided by ORS 329.488.

(d) Participate in the Oregon Teacher Corps program created by ORS 329.757 to 329.780.

(e) Participate in the beginning teacher and administrator mentorship program established by ORS 329.788 to 329.820.

(f) Receive funds under ORS chapter 329 [as provided by ORS 329.875].

NOTE: Deletes reference in (4)(f) to repealed statute.

SECTION 33. ORS 339.035 is amended to read:

339.035. (1) As used in this section, "education service district" means the education service district that contains the school district of which the child is a resident.

(2) When a child is taught or is withdrawn from a public school to be taught by a parent, legal guardian or private teacher, as provided in ORS 339.030, the parent, legal guardian or private teacher must notify the education service district in writing. In addition, when a child who is taught by a parent, legal guardian or private teacher moves to a new education service district, the parent, legal guardian or private teacher shall notify the new education service district in writing. The education service district shall acknowledge receipt of any notification in writing.

(3) Children being taught as provided in subsection (2) of this section shall be examined at grades 3, 5, 8 and 10 in accordance with the following procedures:

(a) The State Board of Education shall adopt by rule a list of approved comprehensive examinations that are readily available.

(b)(A) The parent or legal guardian shall select an examination from the approved list and arrange to have the examination administered to the child by a qualified neutral person, as defined by rule by the State Board of Education.

(B) If the child was withdrawn from public school, the first examination shall be administered to the child at least 18 months after the date on which the child was withdrawn from public school.

(C) If the child never attended public or private school, the first examination shall be administered to the child prior to the end of grade three.

(c) The person administering the examination shall:

(A) Score the examination; and

(B) Report the results of the examination to the parent or legal guardian.

(d) Upon request of the superintendent of the education service district, the parent or legal guardian shall submit the results of the examination to the education service district.

(4)(a) If the composite test score of the child places the child below the 15th percentile based on national norms, the child shall be given an additional examination within one year of when the first examination was administered.

(b) If the composite test score of the child on the second examination shows a declining score, then the child shall be given an additional examination within one year of when the second examination was administered and the superintendent of the education service district may:

(A) Allow the child to continue to be taught by a parent, legal guardian or private teacher; or

(B) Place the education of the child under the supervision of a person holding a teaching license who is selected by the parent or legal guardian at the expense of the parent or legal guardian. If the composite test score of the child continues to show a declining score, the superintendent of the education service district may:

(i) Allow the child to continue under the educational supervision of a licensed teacher selected by the parent or legal guardian and require that the child be given an additional examination within one year of when the last examination was administered;

(ii) Allow the child to be taught by a parent, legal guardian or private teacher and require that the child be given an additional examination within one year of when the last examination was administered; or

(iii) Order the parent or legal guardian to send the child to school for a period not to exceed 12 consecutive months as determined by the superintendent.

(c) If the parent or legal guardian of the child does not consent to placing the education of the child under the supervision of a licensed teacher who is selected by the parent or legal guardian, then the superintendent of the education service district may order the child to return to school for a period not to exceed 12 consecutive months as determined by the superintendent.

(d) If the composite test score of the child on an examination is equal to or greater than the percentile score on the prior test, the child may be taught by a parent, legal guardian or private teacher and for the next examination be examined pursuant to paragraph (a) of this subsection or subsection (3) of this section.

(5)(a) Notwithstanding the examination requirements of subsections (3) and (4) of this section, the parent or legal guardian of a child with a disability who has an individualized education *[plan]* **program** and is receiving special education and related services through the school district or who is being educated in accordance with a privately developed plan shall be evaluated for satisfactory educational progress according to the recommendations of the **program or plan**.

(b) The parent or legal guardian of a child with a disability who was evaluated by service providers selected by the parent or legal guardian based on a privately developed plan shall submit a report of such evaluation to the education service district in lieu of the examination results required by subsections (3) and (4) of this section.

(c) A child with a disability described in this subsection *[shall]* **may** not be subject to the examination requirements of subsections (3) and (4) of this section unless the examination is recommended in the **program or plan** in effect for the child.

NOTE: Standardizes terminology in (5)(a) and (c) (see ORS 343.035 (7)); updates syntax in (5)(c).

SECTION 34. ORS 341.425 is amended to read:

341.425. (1) Before an educational program is commenced at any community college, the board of education of a community college district shall apply to the State Board of Education for permission to commence the program. After the first year of the program, course additions, deletions or changes must be presented to the State Board of Education or a representative of the Department

of Community Colleges and Workforce Development authorized to act for the state board for approval.

(2) Until the community college becomes accredited by the [*Northwest Association of Schools and Colleges*] **Northwest Commission on Colleges and Universities** or its successor, the community college shall contract with an accredited community college for its instructional services, including curricula, to ensure its courses carry accreditation and are acceptable for transfer.

(3) After reviewing the contractual agreement between the nonaccredited and the accredited colleges and after suggesting any modifications in the proposed program of studies, the State Board of Education shall approve or disapprove the application of a district.

NOTE: Updates title of accrediting organization in (2).

SECTION 35. ORS 341.430, as amended by section 11, chapter 104, Oregon Laws 2012, is amended to read:

341.430. (1) As used in this section:

(a) "Associate transfer degree" means an associate degree that is awarded by a community college and that is intended to allow a student to apply the credits earned for the degree toward a baccalaureate degree.

(b) "Community college" means a community college operated under ORS chapter 341.

[(c) "*State institution of higher education*" means a state institution of higher education listed in ORS 352.002.]

(c) "**Public university**" means a public university listed in ORS 352.002.

(d) "Transfer program" means a one-year program that is designed to allow a student to apply the credits earned through the program toward a baccalaureate degree.

(2) The Higher Education Coordinating Commission shall develop standards related to the ability of students to apply credits earned through courses of study at community colleges to baccalaureate degrees awarded by [*state institutions of higher education*] **public universities**. The standards shall be known as the "Transfer Student Bill of Rights and Responsibilities."

(3) The standards developed under this section may include:

(a) Admission standards to [*state institutions of higher education*] **public universities** for students who have earned an associate transfer degree.

(b) The maximum number of credits that students who have earned an associate transfer degree would need to complete prior to receiving various types of baccalaureate degrees at [*state institutions of higher education*] **public universities**.

(c) The maximum number of credits that students who have completed a transfer program would need to complete prior to receiving various types of baccalaureate degrees at [*state institutions of higher education*] **public universities**.

(d) A process by which a community college would award an associate degree to a student upon completion of necessary credits, regardless of whether the student applied to receive the degree or whether the student earned the credits for the degree at a community college or a [*state institution of higher education*] **public university**.

(e) Any other issues identified by the Higher Education Coordinating Commission that relate to courses of study at community colleges and the ability of a student to transfer credits to a community college or a [*state institution of higher education*] **public university**, to be admitted to a [*state institution of higher education*] **public university** or to earn a degree at a community college or a [*state institution of higher education*] **public university**.

(f) Requirements that students must meet in order to benefit from the standards described in paragraphs (a) to (e) of this subsection.

(4) Each community college and [*state institution of higher education*] **public university** shall submit annual reports to the Higher Education Coordinating Commission related to:

(a) The number of students who attend a community college and then a [*state institution of higher education, or a state institution of higher education*] **public university, or a public university** and then a community college.

(b) The number of students who attend one community college and then a different community college.

(c) The number of students who transfer from a community college to a [state institution of higher education] **public university** and who have an associate transfer degree or have completed a transfer program.

(d) The average number of credits students have when they transfer from a community college to a [state institution of higher education] **public university**.

(e) The average number of credits students have when they attend one community college and then a different community college.

(f) The average number of credits that a student earning an associate transfer degree completed at a community college.

(g) The average number of credits students who have transferred from a community college to a [state institution of higher education] **public university** must earn prior to receiving a baccalaureate degree compared to the average number of credits students who did not transfer from a community college must earn prior to receiving a baccalaureate degree.

NOTE: Standardizes terminology (see chapter 637, Oregon Laws 2011).

SECTION 36. ORS 341.440 is amended to read:

341.440. (1) A community college district may contract with another community college district, a common or union high school district, an education service district, the Oregon University System, the Oregon Health and Science University, [with] a private educational institution accredited by the [Northwest Association of Schools and Colleges] **Northwest Commission on Colleges and Universities** or its successor or a career school as defined in ORS 345.010 to obtain educational services for students enrolled in the community college of the district. However, the educational services so obtained must meet the standards for educational services provided by the college and the contract price to the college for such services must not exceed the costs [which] **that** would otherwise be incurred by the college to provide its students the same or similar services.

(2) Educational services for which a district operating a community college may contract include services offered by correspondence and services offered electronically or through telecommunications if such services are accredited by a nationally recognized accrediting association.

(3) For purposes of ORS 341.626, costs incurred under subsection (1) of this section shall be considered operating expenses of the district if the contract is approved by the Commissioner for Community College Services.

NOTE: Polishes syntax and updates title of accrediting organization in (1).

SECTION 37. ORS 341.535 is amended to read:

341.535. (1) Community college faculty are not required to have teaching licenses.

(2) Notwithstanding ORS 342.173, community college faculty who provide instruction in cooperation with a school district for academic, career and technical education, school-to-work or other work-related programs under ORS chapter 329 are not required to have teaching licenses. If the faculty member is not a regular full-time employee of the community college, the school district shall follow the instructor appraisal committee procedures adopted by the Teacher Standards and Practices Commission.

(3) Until a community college becomes accredited by the [Northwest Association of Schools and Colleges] **Northwest Commission on Colleges and Universities** or its successor, the board shall obtain the approval of the accredited community college with which it contracts for curriculum and instructional services before employing any person to teach transfer courses.

NOTE: Updates title of accrediting organization in (3).

SECTION 38. ORS 342.156 is amended to read:

342.156. A person teaching a distance learning course originating in Oregon must:

(1) Have a teaching license issued by the Teacher Standards and Practices Commission with the appropriate subject matter endorsement; or

(2) Be employed by a post-secondary institution accredited by the [Northwest Association of Schools and Colleges] **Northwest Commission on Colleges and Universities or its successor**, and have the appropriate subject matter preparation.

NOTE: Updates title of accrediting organization in (2).

SECTION 39. ORS 342.173 is amended to read:

342.173. (1) Any school district [which] **that** employs any person not properly licensed by the Teacher Standards and Practices Commission and assigned in accordance with the terms specified by the person's license shall forfeit in State School Fund moneys due the district an amount determined by the Teacher Standards and Practices Commission [to not] **not to** exceed the amount of the salary paid to the person for the time during which the person is employed. The forfeiture [shall be] **is** effective unless:

(a) [Such] **The** assignments are made with justification satisfactory to the Teacher Standards and Practices Commission.

(b) The teacher is employed by a post-secondary institution **that is** accredited by the [Northwest Association of Schools and Colleges which] **Northwest Commission on Colleges and Universities or its successor, and that** has a contract with a school district under which the teacher is teaching at the high school level. The contract shall be approved annually by the State Board of Education under rules adopted by the board, including criteria for a teacher's qualifications under subparagraph (C) of this paragraph. The contract shall:

(A) Be for a specific instructional assignment for which the district does not have appropriately licensed personnel either on staff or available to be placed on staff after a reasonably diligent search;

(B) Be approved annually by the governing boards of the post-secondary institution and the school district including a written determination that appropriately licensed personnel have not become available since the previous contract for the assignment;

(C) Provide evidence that the teacher's qualifications are appropriate for the assignment;

(D) Allow the teacher to teach no more than two high school units of credit or the equivalent per year; and

(E) Not be valid during a school closure, strike or summer session.

(c) The person is teaching a live, interactive distance learning course originating outside the state.

(2) A school district shall be required under subsection (1) of this section to forfeit not more than \$1,000 of State School Fund moneys due the district if the license has lapsed during the time of employment with the district and the holder had at the time the license expired all the qualifications necessary to renew the license.

(3) Notwithstanding subsections (1) and (2) of this section, a school district employing unlicensed staff members in positions requiring licensed personnel during the time of a labor dispute shall forfeit in State School Fund moneys an amount equal to the daily salary rate multiplied by the number of teaching days for each unlicensed teaching employee during the entire labor dispute.

(4) If the State Board of Education finds a contract to be in violation of the provisions of subsection (1)(b) of this section, the board shall report the violation to the Teacher Standards and Practices Commission, which shall proceed as provided in subsection (1) of this section.

(5) Any education service district that employs any person not properly licensed by the Teacher Standards and Practices Commission and assigned in accordance with the terms specified in the person's license shall pay from its funds an amount determined by the Teacher Standards and Practices Commission not to exceed the amount of salary paid to the person for the time during which the person was employed. The payment shall be required unless the assignment is made with justification satisfactory to the commission. All amounts received under this subsection shall be credited to the State School Fund.

(6) An education service district shall be required under subsection (5) of this section to pay a penalty of not more than \$1,000 if the license has lapsed during the time of employment with the

district and the holder had at the time the license expired all the qualifications necessary to renew the license.

(7) Subject to any applicable collective bargaining agreement, an education service district required to pay any penalty under subsection (6) of this section is entitled to recover one-half of the amounts paid from the licensed personnel whose unlicensed status caused the payment. Recovery [shall] **may** not exceed one-half of the amount paid that is attributable to the licensed person.

(8) The Teacher Standards and Practices Commission shall notify districts of the licensing expiration dates of their employees who are reported to the commission. The reporting shall be done in a manner specified by the commission.

(9) Subject to any applicable collective bargaining agreement, a district required to forfeit any State School Fund moneys under subsection (2) of this section is entitled to recover one-half of the amounts forfeited from the licensed personnel whose unlicensed status caused the forfeiture. Recovery [shall] **may** not exceed one-half of the amount forfeited that is attributable to the particular licensed person.

(10) A school district or education service district that assigns a teacher to be present in the classroom during a live, interactive distance learning presentation [shall] **may** not be subject to the forfeiture described in subsection (1) of this section solely because the assignment does not conform to the terms specified on the license of the teacher.

NOTE: Updates syntax in (1), (1)(a), (1)(b), (7), (9) and (10); updates title of accrediting organization in (1)(b); adds missing comma in (4).

SECTION 40. ORS 342.360 is amended to read:

342.360. (1) The membership of the Teacher Standards and Practices Commission shall consist of:

- (a) Four elementary teachers;
- (b) Four junior or senior high school teachers;
- (c) One elementary school administrator;
- (d) One junior or senior high school administrator;
- (e) One superintendent of city schools;
- (f) One county superintendent or a superintendent employed by an education service district board;
- (g) One member from the faculty of an approved private teacher education institution in Oregon;
- (h) One member from the faculty of a public university listed in ORS 352.002;
- (i) One member who is also a member of a district school board; and
- (j) Two members of the general public.

(2) Except for those members appointed under subsection (1)(i) and (j) of this section, members must have been actively engaged in teaching, supervising or administering in the public schools or in approved teacher education institutions in Oregon for the period of five years immediately preceding appointment. Acting as an elected representative of teachers, supervisors or administrators shall be considered teaching, supervising or administering for the purposes of the five-year experience requirement. In addition, members appointed under subsection (1)(a) to (f) of this section must hold valid Oregon teaching or administrative licenses other than restricted teaching or administrative licenses.

(3)(a) Throughout the term for which appointed, one of the members appointed under subsection (1)(a) to (j) of this section must hold a teaching license with an endorsement in some aspect of special education or have demonstrated knowledge or experience in special education.

(b) As used in this subsection, "special education" means specially designed education to meet the goals of the [individual] **individualized** education program of a child with a disability including regular classroom instruction, instruction in physical education, home instruction, related services and instruction in hospitals, institutions and special schools.

NOTE: Standardizes terminology in (3)(b) (see ORS 343.035 (7)).

SECTION 41. ORS 343.155 is amended to read:

343.155. The State Board of Education shall establish by rule procedures to protect the rights of every child with a disability who is eligible for special education and every child who there is a reasonable cause to believe has a disability, including:

(1) Rules providing for the participation of the parents of a child with a disability in meetings regarding the child's identification, evaluation, individualized education program, educational placement and the provision of a free appropriate public education to the child.

(2) Rules governing the procedures for the appointment of a surrogate for the parent and other rules necessary to protect the special educational rights of the child, which shall include, but need not be limited to, rules applicable whenever:

(a) No parent of the child can be identified or located after reasonable efforts;

(b) There is reasonable cause to believe that the child has a disability and is a ward of the state;

(c) The child is an unaccompanied homeless youth;

(d) The child reaches the age of majority and has been determined not to have the ability to give informed consent regarding the child's education; or

(e) The parent, guardian or former guardian of the child is disqualified from being appointed as a surrogate under ORS 343.156.

(3) Rules prescribing mediation procedures, resolution sessions and hearings procedures if identification, evaluation, [*individual*] **individualized** education program or placement is contested.

(4) Rules prescribing when notice of procedural safeguards must be given to the parents or the child with a disability who has reached the age of majority, the content of the notice and the language of the notice.

(5) Rules prescribing standards and procedures for disciplinary actions for behavior or misconduct of a child with a disability.

(6) Other procedural safeguards as required by law.

NOTE: Standardizes terminology in (3) (see (1) and ORS 343.035 (7)).

SECTION 42. ORS 343.224 is amended to read:

343.224. School districts [*shall not be*] **are not** financially responsible for noneducational care of a child with a disability unless that district has participated in development of the child's individualized education [*plan*] **program** that clearly documents [*such*] **that the** care is prerequisite to the child receiving a free and appropriate education and the placement is for educational program needs, rather than care needs.

NOTE: Modernizes word choice and standardizes terminology (see ORS 343.035 (7)).

SECTION 43. ORS 346.015 is amended to read:

346.015. (1) Prior to convening a meeting to prepare an [*individual education plan*] **individualized education program** for a child with an intellectual disability or a developmental disability for whom placement at the school operated under ORS 346.010 may be considered, the agency that is providing the education for the child shall notify the local community developmental disabilities program. The case manager responsible for programs for children with intellectual disabilities or developmental disabilities, in consultation with the Department of Human Services, shall evaluate whether the child also has needs for alternative residential care or other support services. If the evaluation determines this to be the case, but documents that community resources are not available to meet these needs, the school district may proceed with the meeting to prepare the [*individual education plan*] **individualized education program** in which placement at the school operated under ORS 346.010 may be considered.

(2) An agency providing education under subsection (1) of this section may initiate the procedure in subsection (1) of this section for any child who does not have an intellectual disability or a developmental disability when in the agency's judgment a treatment or residential issue is prompting proposed placement under ORS 346.010.

(3) A child may not be placed in the school operated under ORS 346.010 unless the district superintendent or the superintendent's designee has signed a statement declaring that the district cannot provide a free appropriate public education for the child commensurate with the needs of the

child as identified by the [*individual education plan*] **individualized education program** of the child and that the school is the least restrictive environment in which the child can be educated.

(4) By rule, the State Board of Education shall determine procedures to be followed by local education agencies in carrying out this section.

NOTE: Standardizes terminology in (1) and (3) (see ORS 343.035 (7)).

SECTION 44. ORS 346.035 is amended to read:

346.035. For a child who is enrolled under ORS 346.010 and who has an intellectual disability or a developmental disability, the Department of Education shall notify the community developmental disabilities program of the date of the annual review of the [*individual education plan*] **individualized education program** of the child for the purpose of including in the review the assigned case manager's assessment of community resources that are available for treatment or residential needs the child might have.

NOTE: Standardizes terminology (see ORS 343.035 (7)).

SECTION 45. ORS 346.041 is amended to read:

346.041. (1) Transportation for pupils attending the school operated under ORS 346.010 is the responsibility of the pupil's resident school district. The district may provide transportation directly or by agreement with another school district, a public carrier or the Department of Education.

(2) The actual and necessary transportation expenses incurred under subsection (1) of this section, at a frequency consistent with a pupil's [*individual education plan*] **individualized education program**, shall be considered approved transportation costs for purposes of ORS 327.006 and 327.033.

(3) The resident school district shall reimburse the Department of Education for all transportation costs the department incurs on behalf of the district within 10 days after receipt of the itemized invoice.

(4) The payments of the resident school districts required under subsection (3) of this section and an amount specifically appropriated thereto shall be deposited in the State Treasury to the credit of the Special Education Transportation Revolving Account to be used by the Department of Education for the transportation of pupils attending the school operated under ORS 346.010. The account shall be continuously appropriated to the department for such purpose.

(5) Any unexpended and unobligated balance in the Special Education Transportation Revolving Account in excess of \$70,000 as of September 1 of any year shall be transferred from the account to the General Fund to be available for general governmental purposes.

NOTE: Standardizes terminology in (2) (see ORS 343.035 (7)).

SECTION 46. ORS 348.105 is amended to read:

348.105. (1) As used in this section:

(a) "Educational institution" means any post-secondary educational institution that is approved or accredited by the [*Northwest Association of Schools and Colleges*] **Northwest Commission on Colleges and Universities or its successor**, by its regional equivalent or by the appropriate official, department or agency of the state or nation in which the institution is located, and that is:

- (A) A four-year college or university;
- (B) A junior college or community college; or
- (C) A technical, professional or career school.

(b) "Educational loan" means a loan or other aid or assistance for the purpose of furthering the obligor's education at an educational institution.

(c) "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(2) Notwithstanding any other provision of law, any written obligation made by any minor in consideration of an educational loan received by the minor from any person shall be as valid and binding as if the minor had, at the time of making and executing the obligation, attained the age of majority, but only if prior to the making of the educational loan an educational institution has certified in writing to the person making the educational loan that the minor is enrolled, or has been accepted for enrollment, in the educational institution.

(3) Any obligation mentioned in subsection (2) of this section may be enforced in any action or proceeding against such person in the name of the person and shall be valid, insofar as the issue of age is concerned, without the consent thereto of the parent or guardian of such person. Such person may not disaffirm the obligation because of age nor may such person interpose in any action or proceeding arising out of the educational loan the defense that the borrower is, or was, at the time of making or executing the obligation, a minor.

(4) Any parent or legal guardian who did not consent to guarantee or otherwise ensure performance of the obligation mentioned in subsection (2) of this section [*shall not be*] **is not** liable for payment of such obligation.

NOTE: Updates title of accrediting organization in (1)(a); modernizes word choice in (4).

SECTION 47. ORS 348.270 is amended to read:

348.270. (1) In addition to any other scholarships provided by law, the **Oregon Student Access Commission** shall award scholarships in any public university listed in ORS 352.002, in the Oregon Health and Science University, in any community college operated under ORS chapter 341, or in any Oregon-based regionally accredited independent institution, to any student applying for enrollment or who is enrolled therein, who is:

(a) The natural child, adopted child or stepchild of any public safety officer who, in the line of duty, was killed or so disabled, as determined by the commission, that the income of the public safety officer is less than that earned by public safety officers performing duties comparable to those performed at the highest rank or grade attained by the public safety officer; or

(b) A current foster child or former foster child who enrolls in an institution of higher education as an undergraduate student not later than three years from the date the student was removed from the care of the Department of Human Services, the date the student graduated from high school or the date the student received the equivalent of a high school diploma, whichever date is earliest.

(2) Scholarships awarded under this section to students who are dependents of public safety officers or who are current foster children or former foster children shall equal the amount of tuition and all fees levied by the institution against the recipient of the scholarship. However, scholarships awarded to students who attend independent institutions [*shall*] **may** not exceed the amount of tuition and all fees levied by the University of Oregon.

(3) If [*the*] **a** student who is the dependent of a deceased public safety officer continues to remain enrolled in a public university listed in ORS 352.002 or a community college or an independent institution within the State of Oregon, the student shall be entitled to renewal of the scholarship until the student has received the equivalent of four years of undergraduate education and four years of post-graduate education.

(4) If [*the*] **a** student who is a current foster child or former foster child or who is the dependent of a public safety officer with a disability continues to remain enrolled in a public university listed in ORS 352.002 or a community college or an independent institution within the State of Oregon, the student shall be entitled to renewal of the scholarship until the student has received the equivalent of four years of undergraduate education.

(5) The commission may require proof of [*the*] **a** student's relationship to a public safety officer described in subsection (1) of this section or proof that [*the*] **a** student is a current foster child or former foster child.

(6) As used in this section:

(a) "Former foster child" means an individual who, for a total of 12 or more months while between the ages of 16 and 21, was a ward of the court pursuant to ORS 419B.100 (1)(b) to (e) and in the legal custody of the Department of Human Services for out-of-home placement.

(b) "Public safety officer" means:

(A) A firefighter or police officer as those terms are defined in ORS 237.610.

(B) A member of the Oregon State Police.

(C) A police officer commissioned by a university under ORS 352.383.

(D) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws 2011.

NOTE: Sets forth full title of commission in (1); updates syntax in (2); corrects word choice in (3), (4) and (5).

SECTION 48. ORS 348.270, as amended by section 51, chapter 644, Oregon Laws 2011, is amended to read:

348.270. (1) In addition to any other scholarships provided by law, the **Oregon Student Access** Commission shall award scholarships in any public university listed in ORS 352.002, in the Oregon Health and Science University, in any community college operated under ORS chapter 341, or in any Oregon-based regionally accredited independent institution, to any student applying for enrollment or who is enrolled therein, who is:

(a) The natural child, adopted child or stepchild of any public safety officer who, in the line of duty, was killed or so disabled, as determined by the commission, that the income of the public safety officer is less than that earned by public safety officers performing duties comparable to those performed at the highest rank or grade attained by the public safety officer; or

(b) A current foster child or former foster child who enrolls in an institution of higher education as an undergraduate student not later than three years from the date the student was removed from the care of the Department of Human Services, the date the student graduated from high school or the date the student received the equivalent of a high school diploma, whichever date is earliest.

(2) Scholarships awarded under this section to students who are dependents of public safety officers or who are current foster children or former foster children shall equal the amount of tuition and all fees levied by the institution against the recipient of the scholarship. However, scholarships awarded to students who attend independent institutions [*shall*] **may** not exceed the amount of tuition and all fees levied by the University of Oregon.

(3) If [*the*] **a** student who is the dependent of a deceased public safety officer continues to remain enrolled in a public university listed in ORS 352.002 or a community college or an independent institution within the State of Oregon, the student shall be entitled to renewal of the scholarship until the student has received the equivalent of four years of undergraduate education and four years of post-graduate education.

(4) If [*the*] **a** student who is a current foster child or former foster child or who is the dependent of a public safety officer with a disability continues to remain enrolled in a public university listed in ORS 352.002 or a community college or an independent institution within the State of Oregon, the student shall be entitled to renewal of the scholarship until the student has received the equivalent of four years of undergraduate education.

(5) The commission may require proof of [*the*] **a** student's relationship to a public safety officer described in subsection (1) of this section or proof that [*the*] **a** student is a current foster child or former foster child.

(6) As used in this section:

(a) "Former foster child" means an individual who, for a total of 12 or more months while between the ages of 16 and 21, was a ward of the court pursuant to ORS 419B.100 (1)(b) to (e) and in the legal custody of the Department of Human Services for out-of-home placement.

(b) "Public safety officer" means:

(A) A firefighter or police officer as those terms are defined in ORS 237.610.

(B) A member of the Oregon State Police.

(C) A police officer commissioned by a university under ORS 352.383.

NOTE: Sets forth full title of commission in (1); updates syntax in (2); corrects word choice in (3), (4) and (5).

SECTION 49. ORS 351.293 is amended to read:

351.293. (1) Notwithstanding ORS 341.290, 351.070 (3) or 353.050, a current foster child or former foster child under 25 years of age who enrolls in an institution of higher education as an undergraduate student not later than three years after the date the student was removed from the care of the Department of Human Services, the date the student graduated from high school or the date the student received the equivalent of a high school diploma, whichever date is earliest, shall have the amount of tuition and all fees levied against the student waived if attending an institution of

higher education [listed in ORS 352.002, a community college operated under ORS chapter 341 or Oregon Health and Science University] for purposes of pursuing an initial undergraduate degree.

(2) A student who is a current foster child or former foster child is entitled to waiver of tuition and all fees under subsection (1) of this section until the student has received the equivalent of four years of undergraduate education.

(3) As a condition of receiving a tuition waiver for an academic year, a current foster child or former foster child must:

(a) Complete and submit the Free Application for Federal Student Aid for that academic year; and

(b) For years after the first academic year at an institution of higher education, have completed a minimum of 30 volunteer service hours in the previous academic year performing community service activities such as mentoring foster youth or assisting in the provision of peer support service activities, according to policies developed by the institution of higher education at which the current foster child or former foster child is enrolled.

(4) A waiver of tuition and all fees under subsection (1) of this section may be reduced by the amount of any federal aid scholarships or grants, an award from the Oregon Opportunity Grant program established under ORS 348.205 and any other aid received from the institution of higher education. For the purposes of this subsection, "federal aid scholarships or grants" does not include Chafee Education and Training Grant vouchers (P.L. 107-133).

(5) As used in this section[,]:

(a) "Former foster child" means an individual who, for a total of 12 or more months while between 16 and 21 years of age, was a ward of the court pursuant to ORS 419B.100 (1)(b) to (e) and in the legal custody of the Department of Human Services for out-of-home placement.

(b) "**Institution of higher education**" means:

(A) **A public university listed in ORS 352.002;**

(B) **A community college operated under ORS chapter 341; or**

(C) **The Oregon Health and Science University.**

NOTE: Standardizes terminology (see chapter 637, Oregon Laws 2011).

SECTION 50. ORS 351.296 is amended to read:

351.296. (1) As used in this section, "[state] institution of higher [learning] **education**" means:

(a) A [state institution of higher education] **public university** listed in ORS 352.002;

(b) A community college operated under ORS chapter 341; or

(c) **The Oregon Health and Science University.**

(2) [A state institution of higher learning] **An institution of higher education** shall allow members and agents of the Armed Forces of the United States to recruit on a public campus and shall set rules and standards for such recruitment that are the same as for all other employment recruitment activities allowed on the campus.

NOTE: Standardizes terminology (see chapter 637, Oregon Laws 2011).

SECTION 51. ORS 352.720 is amended to read:

352.720. As used in ORS 352.710 to 352.760, unless the context requires otherwise:

(1) "Private and independent institutions of higher education" or "institution" means any non-public and nonprofit college or university in the State of Oregon accredited by the [Northwest Association of Schools and Colleges] **Northwest Commission on Colleges and Universities or its successor**, and any chiropractic college located in this state and accredited by the [Commission on Accreditation of the] Council on Chiropractic Education[,] or its successor.

(2) "Nonsectarian educational services" means the [providing] **provision** of instruction in secular subjects.

(3) "Secular subjects" means any course [which] **that** is presented in the curriculum of a private and independent institution of higher education [which] **that** is not hobby or recreational in nature or [which] **that** does not advocate the religious teachings or the morals or forms of worship of any sect.

NOTE: Updates titles of accrediting organizations and removes unnecessary comma in (1); updates word choice in (2) and (3).

SECTION 52. ORS 352.790 is amended to read:

352.790. As used in ORS 352.790 to 352.820, unless the context requires otherwise:

(1) "Education facilities" means real or personal property owned or operated by an educational institution and used to provide post-secondary education. "Education facilities" includes administrative offices, student and staff parking and on-campus dormitories, but does not include property used for sectarian instruction nor used primarily as a place of religious worship or as a part of a program of a school or department of divinity for any religious denomination or for the religious training of ministers, priests, rabbis or other similar persons in the field of religion.

(2) "Education facilities costs" means all costs of acquiring, constructing and improving education facilities, and capitalized interest, reserves, costs of credit enhancements and costs of issuing and paying revenue bonds.

(3) "Education facility revenues" means repayments of loans authorized by ORS 352.800 (3), and any moneys derived from rights or property [which] **that** are security for such a loan.

(4) "Educational institution" means any nonprofit institution located in this state [which] **that** grants post-secondary degrees and is accredited by the [Northwest Association of Schools and Colleges] **Northwest Commission on Colleges and Universities or its successor**, or affiliated nonprofit foundations whose role is to further the mission of qualified institutions.

(5) "Municipality" means any city or county.

(6) "Revenue bond" means a revenue bond as defined in ORS 287A.001 that is issued by a municipality pursuant to ORS 352.790 to 352.820.

NOTE: Updates word choice in (3) and (4); updates title of accrediting organization in (4).

SECTION 53. ORS 390.114 is amended to read:

390.114. (1) There is established a State Parks and Recreation Commission consisting of seven members appointed by the Governor.

(2) The term of office of each member is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(3) All appointments of members of the commission by the Governor are subject to confirmation by the Senate pursuant to ORS 171.562 and 171.565.

(4) The Governor shall appoint one member of the commission from each of the congressional districts [referred to in ORS 188.135] **of this state**, one member from among individuals who reside west of the summit of the Coast Mountain Range and one member from among individuals who reside east of the summit of the Cascade Mountain Range.

(5) A member of the commission is entitled to compensation and expenses as provided in ORS 292.495.

NOTE: Deletes reference to obsolete statute in (4).

SECTION 54. ORS 408.370 is amended to read:

408.370. (1) In addition to the other uses for the Oregon Housing Fund set forth in ORS 458.600 to 458.665, financial support for an Oregon Veterans' Home is a permitted use of moneys from the Oregon Housing Fund.

(2) Notwithstanding ORS 442.315[,] **and** 442.325 [and 442.584], an Oregon Veterans' Home is not subject to any certificate of need requirement.

NOTE: Deletes reference to repealed statute in (2).

SECTION 55. ORS 413.011, as amended by section 15, chapter 38, Oregon Laws 2012, is amended to read:

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

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

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

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

(d) Establish and continuously refine uniform, statewide health care quality standards for use by all purchasers of health care, third-party payers and health care providers as quality performance benchmarks.

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

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

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

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

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

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

(k) By December 31, 2010, investigate and report to the Legislative Assembly, and annually thereafter, on the feasibility and advisability of future changes to the health insurance market in Oregon, including but not limited to the following:

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

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

(C) The implementation of a system of interoperable electronic health records utilized by all health care providers in this state.

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

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

(n) Work with the Public Health Benefit Purchasers Committee, administrators of the medical assistance program and the Department of Corrections to identify uniform contracting standards for health benefit plans that achieve maximum quality and cost outcomes and align the contracting standards for all state programs to the greatest extent practicable.

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

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

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

(3) If the board or the authority is unable to perform, in whole or in part, any of the duties described in ORS 413.006 to 413.042, *413.101* and 741.340 without federal approval, the authority

is authorized to request, in accordance with ORS 413.072, waivers or other approval necessary to perform those duties. The authority shall implement any portions of those duties not requiring legislative authority or federal approval, to the extent practicable.

(4) The enumeration of duties, functions and powers in this section is not intended to be exclusive nor to limit the duties, functions and powers imposed on the board by ORS 413.006 to 413.042[, 413.101] and 741.340 and by other statutes.

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

NOTE: Eliminates nonsensical citations in (3) and (4).

SECTION 56. ORS 413.032 is amended to read:

413.032. (1) The Oregon Health Authority is established. The authority shall:

(a) Carry out policies adopted by the Oregon Health Policy Board;
(b) Administer the Oregon Integrated and Coordinated Health Care Delivery System established in ORS 414.620;

(c) Administer the Oregon Prescription Drug Program;

(d) Administer the Family Health Insurance Assistance Program;

(e) Develop the policies for and the provision of publicly funded medical care and medical assistance in this state;

(f) Develop the policies for and the provision of mental health treatment and treatment of addictions;

(g) Assess, promote and protect the health of the public as specified by state and federal law;

(h) Provide regular reports to the board with respect to the performance of health services contractors serving recipients of medical assistance, including reports of trends in health services and enrollee satisfaction;

(i) Guide and support, with the authorization of the board, community-centered health initiatives designed to address critical risk factors, especially those that contribute to chronic disease;

(j) Be the state Medicaid agency for the administration of funds from Titles XIX and XXI of the Social Security Act and administer medical assistance under ORS chapter 414;

(k) In consultation with the Director of the Department of Consumer and Business Services, periodically review and recommend standards and methodologies to the Legislative Assembly for:

(A) Review of administrative expenses of health insurers;

(B) Approval of rates; and

(C) Enforcement of rating rules adopted by the Department of Consumer and Business Services;

(L) Structure reimbursement rates for providers that serve recipients of medical assistance to reward comprehensive management of diseases, quality outcomes and the efficient use of resources and to promote cost-effective procedures, services and programs including, without limitation, preventive health, dental and primary care services, web-based office visits, telephone consultations and telemedicine consultations;

(m) Guide and support community three-share agreements in which an employer, state or local government and an individual all contribute a portion of a premium for a community-centered health initiative or for insurance coverage;

(n) Develop, in consultation with the Department of Consumer and Business Services, one or more products designed to provide more affordable options for the small group market; and

(o) Implement policies and programs to expand the skilled, diverse workforce as described in ORS 414.018 (4).

(2) The Oregon Health Authority is authorized to:

(a) Create an all-claims, all-payer database to collect health care data and monitor and evaluate health care reform in Oregon and to provide comparative cost and quality information to consumers, providers and purchasers of health care about Oregon's health care systems and health plan networks in order to provide comparative information to consumers.

(b) Develop uniform contracting standards for the purchase of health care, including the following:

- (A) Uniform quality standards and performance measures;
 - (B) Evidence-based guidelines for major chronic disease management and health care services with unexplained variations in frequency or cost;
 - (C) Evidence-based effectiveness guidelines for select new technologies and medical equipment;
- and

(D) A statewide drug formulary that may be used by publicly funded health benefit plans.

(3) The enumeration of duties, functions and powers in this section is not intended to be exclusive nor to limit the duties, functions and powers imposed on or vested in the Oregon Health Authority by ORS 413.006 to 413.042[, 413.101] and 741.340 or by other statutes.

NOTE: Eliminates nonsensical citation in (3).

SECTION 57. ORS 413.037 is amended to read:

413.037. (1) The Director of the Oregon Health Authority, each deputy director and authorized representatives of the director may administer oaths, take depositions and issue subpoenas to compel the attendance of witnesses and the production of documents or other written information necessary to carry out the provisions of ORS 413.006 to 413.042[, 413.101] and 741.340.

(2) If any person fails to comply with a subpoena issued under this section or refuses to testify on matters on which the person lawfully may be interrogated, the director, deputy director or authorized representative may follow the procedure set out in ORS 183.440 to compel obedience.

NOTE: Reformats section; eliminates nonsensical citation.

SECTION 58. Notwithstanding any other provision of law, ORS 413.101 shall not be considered to have been added to or made a part of ORS 413.006 to 413.042 for the purpose of statutory compilation or for the application of definitions, penalties or administrative provisions applicable to statute sections in that series.

NOTE: Removes statute from inappropriate ORS series.

SECTION 59. ORS 413.520 is amended to read:

413.520. (1) The Oregon Health Authority, in collaboration with county representatives, [*prior to January 1, 2000,*] shall develop a plan for the administration of the statewide gambling addiction programs and delivery of program services.

(2) The authority may appoint an advisory committee or designate an existing advisory committee to make recommendations to the authority concerning:

- (a) Performance standards and evaluation methodology;
- (b) Fiscal reporting and accountability;
- (c) Delivery of services; and
- (d) A distribution plan for use of available funds.

(3) The distribution plan for the moneys available in the Problem Gambling Treatment Fund shall be based on performance standards.

(4) The authority may enter into an intergovernmental agreement or other contract for the delivery of services related to programs for the prevention and treatment of gambling addiction and other emotional and behavioral problems related to gambling.

(5) Before entering into an agreement or contract under subsection (4) of this section, the authority must consider the experience, performance and program capacity of those organizations currently providing services.

NOTE: Removes defunct date in (1).

SECTION 60. ORS 418.580, as amended by section 29, chapter 97, Oregon Laws 2012, is amended to read:

418.580. (1) [*By October 1, 2012, and*] To the extent practicable using available resources, the Department of Human Services and county partners shall implement Strengthening, Preserving and Reunifying Families programs as described in this section. County partners are encouraged to form collaborations with programs to design, oversee and participate in program development and implementation as appropriate. The department shall be the lead agency in efforts undertaken pursuant to this section, but all officers, boards, commissions and other agencies of the State of Oregon shall

cooperate with the department to accomplish the duties imposed on the department by ORS 418.575 to 418.598 and to allocate services provided by programs as described in this section.

(2)(a) The Director of Human Services or the director's designee, the Director of the Oregon Health Authority or the director's designee or the Director of the Housing and Community Services Department or the director's designee shall enter into a contract with, and make reasonable payment for services provided by, a program in accordance with ORS 418.575 to 418.598, and shall, where necessary, enter into contracts with a lead agency or with county and community entities that have been designated by the county partners to coordinate services provided under this section.

(b) A contract entered into under this subsection shall require only those services that are reasonably available in the county or region where the program is or will be providing services. Services may or may not be located in a given county or region.

(c) At the election of any director or director's designee, a contract entered into under this subsection may be a performance-based contract.

(3) The programs implemented under this section shall provide an array of services. Depending on resources and availability, the services provided may include but are not limited to the following:

(a) Front end intervention services that include alcohol and drug treatment providers or mental health providers accompanying department caseworkers on initial calls and visits in response to allegations or reports of abuse or neglect. County partners shall participate in assessments to determine the appropriateness and level of program services required for a child and the child's family, the creation of safety plans to enable the provision of in-home services if appropriate and the development of family preservation and reunification plans for presentation to the juvenile court.

(b) Residential treatment whereby a member of a child's family with care, custody or control of the child enters a treatment facility accompanied by the child with 24-hour supervision while the child and the member of the child's family engage in family strengthening activities and receive appropriate mental health and addiction treatment support and services.

(c) Supervised housing whereby a child and the child's family remain together in program housing while they participate in family strengthening activities, receive mental health and addiction support and services and have the appropriate level of supervision to ensure the physical health, care and safety of the child.

(d) Family-centered day and outpatient treatment services, either after completion of residential treatment or in lieu of residential treatment, designed specifically for substance-abusing parents of children involved in the child welfare system.

(e) Intensive in-home services while the child and family engage in family strengthening activities.

(f) Facilitation of regular contact between a child and the child's family, if separation has occurred, to facilitate an easier, quicker and more successful transition of the child back into the family home.

(g) Case managers who provide child and family supervision, assistance identifying and accessing needed services, observation and monitoring of parenting behavior, assistance with life skills development and assistance in removing barriers to system independence.

(h) Immediate access to supervised drug-free emergency and short-term housing.

(i) Access to permanent, drug-free housing with on-site case managers and access to supportive services that increase stability for a child and the child's family.

(j) Family finding services to identify extended family members to provide additional support, resources and alternative placement options if necessary.

(k) Services of a court appointed special advocate appointed under section 2, chapter 97, Oregon Laws 2012, where available.

(L) Other services and interventions as programs evolve, research develops and funding becomes available.

(4) The services provided by programs must be culturally competent and include evidence-informed or evidence-based practices.

(5) The department shall establish by rule client-focused functional outcome measures for programs implemented under this section.

(6) Client-focused functional outcome measures may be used as a basis for funding programs and entering into or renewing contracts with programs.

(7) Programs shall develop and implement training and continuing education curricula for persons delivering program services and, when adequate funding exists, sponsor the attendance of service providers at state or national training programs, conferences or other similar events.

(8) Programs may seek funds from public and private sources to:

(a) Meet match requirements for state or federal grants to support the provision of program services;

(b) Implement and operate the training and educational requirements of subsection (7) of this section; and

(c) Provide financial resources for the hiring of personnel and the provision of existing or enhanced program services.

(9) The department, in consultation with programs, shall report annually to the Governor and the appropriate interim committees of the Legislative Assembly that address child welfare issues on the progress toward and projected costs of full implementation of ORS 418.575 to 418.598.

NOTE: Removes defunct date in (1).

SECTION 61. ORS 419B.100 is amended to read:

419B.100. (1) Except as otherwise provided in subsection [(6)] (5) of this section and ORS 107.726, the juvenile court has exclusive original jurisdiction in any case involving a person who is under 18 years of age and:

(a) Who is beyond the control of the person's parents, guardian or other person having custody of the person;

(b) Whose behavior is such as to endanger the welfare of the person or of others;

(c) Whose condition or circumstances are such as to endanger the welfare of the person or of others;

(d) Who is dependent for care and support on a public or private child-caring agency that needs the services of the court in planning for the best interest of the person;

(e) Whose parents or any other person or persons having custody of the person have:

(A) Abandoned the person;

(B) Failed to provide the person with the care or education required by law;

(C) Subjected the person to cruelty, depravity or unexplained physical injury; or

(D) Failed to provide the person with the care, guidance and protection necessary for the physical, mental or emotional well-being of the person;

(f) Who has run away from the home of the person;

(g) Who has filed a petition for emancipation pursuant to ORS 419B.550 to 419B.558; or

(h) Who is subject to an order entered under ORS 419C.411 (7)(a).

(2) The court shall have jurisdiction under subsection (1) of this section even though the child is receiving adequate care from the person having physical custody of the child.

(3) The provisions of subsection (1) of this section do not prevent a court of competent jurisdiction from entertaining a civil action or suit involving a child.

(4) The court does not have further jurisdiction as provided in subsection (1) of this section after a minor has been emancipated pursuant to ORS 419B.550 to 419B.558.

(5)(a) An Indian tribe has exclusive jurisdiction over any child custody proceeding involving an Indian child who resides or is domiciled within the reservation of the tribe, except where the jurisdiction is otherwise vested in the state by existing federal law.

(b) Upon the petition of either parent, the Indian custodian or the Indian child's tribe, the juvenile court, absent good cause to the contrary and absent objection by either parent, shall transfer a proceeding for the foster care placement of, or termination of parental rights to, an Indian child not domiciled or residing within the reservation of the Indian child's tribe, to the jurisdiction of the tribe.

(c) The juvenile court shall give full faith and credit to the public acts, records and judicial proceedings of an Indian tribe applicable to an Indian child custody proceeding to the same extent that the juvenile court gives full faith and credit to the public acts, records and judicial proceedings of any other entity.

NOTE: Corrects subsection reference in (1) (see section 5, chapter 291, Oregon Laws 2011).

SECTION 62. ORS 427.293 is amended to read:

427.293. (1) In any proceeding conducted under ORS 427.235 to 427.290, the court may not disclose any part of the record, including any report submitted to the court under ORS 427.270 to any person except:

(a) The court shall, pursuant to rules adopted by the Department of State Police, transmit the minimum information necessary, as defined in ORS 181.740, to the Department of State Police for persons described in ORS 181.740 (1)(c) to enable the department to maintain the information and transmit the information to the federal government as required under federal law;

(b) On request of the person subject to the proceeding;

(c) On request of the person's legal representative or the attorney for the person or the state;
or

(d) Pursuant to court order.

(2) In any proceeding described in subsection (1) of this section that is before the Supreme Court or the Court of Appeals, the limitations on disclosure imposed by this section apply to the appellate court record and to the trial court record while it is in the appellate court's custody. The appellate court may disclose information from the trial or appellate court record in a decision, as defined in ORS 19.450, provided that the court uses initials, an alias or some other convention for protecting against public disclosure the identity of the person *[who is alleged to have mental retardation]* **alleged to have an intellectual disability and to be in need of commitment for residential care, treatment and training.**

NOTE: Updates terminology and refines context in (2) (see chapter 658, Oregon Laws 2011).

SECTION 63. ORS 431.864 is amended to read:

431.864. (1) Physicians, nurse midwives and other licensed health care professionals who provide prenatal and postnatal care to patients may provide to each patient, and family members of the patient, if appropriate, the informational materials published by the **Oregon Health** Authority under ORS 431.862 or other maternal mental health education materials that are approved by the authority.

(2) Hospitals and other health care facilities that provide maternity care may give postnatal and post-pregnancy loss patients, and family members of the patients, if appropriate, prior to the discharge of the patient, the informational materials published by the authority under ORS 431.862 or other maternal mental health education materials that are approved by the authority.

NOTE: Provides full agency title on first reference in (1).

SECTION 64. ORS 433.815 is amended to read:

433.815. (1) Educational training on the treatment of allergic responses, as required by ORS 433.800 to 433.830, shall be conducted under the supervision of a physician licensed under ORS chapter 677 or a nurse practitioner licensed under ORS chapter 678 to practice in this state. The training may be conducted by a health care professional licensed under ORS chapter 678 as delegated by a supervising professional or by an emergency medical *[technician]* **services provider** meeting the requirements established by the Oregon Health Authority by rule. The curricula shall include, at a minimum, the following subjects:

(a) Recognition of the symptoms of systemic allergic responses to insect stings and other allergens;

(b) Familiarity with common factors that are likely to elicit systemic allergic responses;

(c) Proper administration of an intramuscular or subcutaneous injection of epinephrine for severe allergic responses to insect stings and other specific allergens; and

(d) Necessary follow-up treatment.

(2) Educational training on the treatment of hypoglycemia, as required by ORS 433.800 to 433.830, shall be conducted under the supervision of a physician licensed under ORS chapter 677 or a nurse practitioner licensed under ORS chapter 678 to practice in this state. The training may be conducted by a health care professional licensed under ORS chapter 678 as delegated by a supervising professional. The curricula shall include, at a minimum, the following subjects:

- (a) Recognition of the symptoms of hypoglycemia;
- (b) Familiarity with common factors that may induce hypoglycemia;
- (c) Proper administration of a subcutaneous injection of glucagon for severe hypoglycemia when other treatment has failed or cannot be initiated; and
- (d) Necessary follow-up treatment.

NOTE: Updates occupational title in (1) (see chapter 703, Oregon Laws 2011).

SECTION 65. ORS 442.342 is amended to read:

442.342. (1) Notwithstanding any other provision of law, a hospital licensed under ORS 441.025, in accordance with rules adopted by the Oregon Health Authority, may apply for waiver from the provisions of ORS 442.325 [and section 9, chapter 1034, Oregon Laws 1989], and the authority shall grant [such] **the** waiver if, for the most recently completed hospital fiscal year preceding the date of application for waiver and each succeeding fiscal year thereafter, the percentage of qualified inpatient revenue is not less than that described in subsection (2) of this section.

(2)(a) The percentage of qualified inpatient revenue for the first year in which a hospital is granted a waiver under subsection (1) of this section [shall] **may** not be less than 60 percent.

(b) The percentage in paragraph (a) of this subsection shall be increased by five percentage points in each succeeding hospital fiscal year until the percentage of qualified inpatient revenue equals or exceeds 75 percent.

(3) As used in this section:

(a) "Qualified inpatient revenue" means revenue earned from public and private payers for inpatient hospital services approved by the authority pursuant to rules, including:

(A) Revenue earned pursuant to Title XVIII, United States Social Security Act, when such revenue is based on diagnostic related group prices [which] **that** include capital-related expenses or other risk-based payment programs as approved by the authority;

(B) Revenue earned pursuant to Title XIX, United States Social Security Act, when such revenue is based on diagnostic related group prices [which] **that** include capital-related expenses;

(C) Revenue earned under negotiated arrangements with public or private payers based on all-inclusive per diem rates for one or more hospital service categories;

(D) Revenue earned under negotiated arrangements with public or private payers based on all-inclusive per discharge or per admission rates related to diagnostic related groups or other service or intensity-related measures;

(E) Revenue earned under arrangements with one or more health maintenance organizations;

or

(F) Other prospectively determined forms of inpatient hospital reimbursement approved in advance by the authority in accordance with rules.

(b) "Percentage of qualified inpatient revenue" means qualified inpatient revenue divided by total gross inpatient revenue as defined by administrative rule of the authority.

(4)(a) The authority shall hold a hearing to determine the cause if any hospital granted a waiver pursuant to subsection (1) of this section fails to reach the applicable percentage of qualified inpatient revenue in any subsequent fiscal year of the hospital.

(b) If the authority finds that the failure was without just cause and that the hospital has undertaken projects that, except for the provisions of this section, would have been subject to ORS 442.325 [or section 9, chapter 1034, Oregon Laws 1989], the authority shall impose one of the penalties outlined in paragraph (c) of this subsection.

(c)(A) A one-time civil penalty of not less than \$25,000 or more than \$250,000; or

(B) An annual civil penalty equal to an amount not to exceed 110 percent of the net profit derived from such project or projects for a period not to exceed five years.

(5) Nothing in this section shall be construed to permit a hospital to develop a new inpatient hospital facility or provide new services authorized by facilities defined as “long term care facility” under ORS 442.015 under a waiver granted pursuant to subsection (1) of this section.

NOTE: Eliminates references to repealed law in (1) and (4)(b); updates syntax in (1), (2)(a) and (3)(a)(A) and (B); corrects punctuation in (4)(b).

SECTION 66. ORS 443.065 is amended to read:

443.065. The home health agency shall:

(1) Be primarily engaged in providing skilled nursing services and at least one other service delineated in ORS 443.075 [(2) and (3)] **(1)(b) and (c)**;

(2) Have policies established by professional personnel associated with the agency or organization, including one or more physicians and one or more registered nurses, at least two of whom are neither owners nor employees of the agency, and two consumers, to govern the services that it provides;

(3) Require supervision of services that it provides under subsection (1) of this section by a physician, nurse practitioner or registered nurse, preferably a public health nurse;

(4) Maintain clinical, financial and professional records on all patients; and

(5) Have an overall plan and budget in effect.

NOTE: Corrects citation in (1) (see section 70, chapter 792, Oregon Laws 2009).

SECTION 67. ORS 460.330 is amended to read:

460.330. (1) An application for an operating permit to operate an amusement ride or device shall be made on an annual basis by the person owning the ride or device or the person’s agent or lessee. The application shall be on forms provided by the Department of Consumer and Business Services.

(2) An application for an annual operating permit shall include an inspection report by an amusement ride inspector employed or otherwise authorized to inspect by the insurance carrier insuring the ride or device. The inspector shall indorse upon the application any restrictions and conditions that, in the inspector’s judgment, should be imposed upon the operation of the amusement ride or device to protect human life and property. In addition, the inspector shall indicate whether the amusement ride or device:

(a) Meets the underwriter’s standards;

(b) Meets safety standards approved by [*the American Society of Testing Materials*] **ASTM International**; and

(c) Is assembled and operated in compliance with the manual supplied by the manufacturer of the ride or device.

(3) The inspection shall be performed no more than 90 days prior to the issuance or renewal date of the permit. The department may issue a temporary renewal permit without the required inspection report, allowing continued operation of a previously inspected ride or device if it appears to the department that the owner or operator has attempted to obtain an inspection, but inspection services are temporarily unavailable.

(4) An application shall include the name of the insurance carrier and the number of the insurance policy insuring the ride or device as required by ORS 460.320 (1)(b).

(5) The department shall disapprove and reject an application for a permit if it determines that the:

(a) Owner or lessee of the amusement ride or device is not insured as required by ORS 460.320 (1)(b);

(b) Operation does not meet safety standards as guided by the safety standards approved by [*the American Society of Testing Materials*] **ASTM International**;

(c) Amusement ride or device is not assembled and operated in compliance with the manual supplied by the manufacturer; or

(d) Operation may endanger human life or property.

(6) Upon approval of an application and payment of fees as prescribed by rule, the department shall issue a permit authorizing operation of the amusement ride or device.

NOTE: Updates title of organization in (2)(b) and (5)(b).

SECTION 68. ORS 460.355 is amended to read:

460.355. (1) In adopting rules pursuant to ORS 460.360 (1), applicable to equipment mentioned in ORS 460.310 (2)(b), the Department of Consumer and Business Services shall be guided by the safety standards approved by [*the American Society of Testing Materials*] **ASTM International**.

(2) The owner or operator shall be deemed not a common carrier; however, such owner or operator shall exercise the highest degree of care for the safety of users.

(3) If the department finds that the United States Forest Service or other agency of government has jurisdiction over and regulates and provides inspection of the equipment mentioned in ORS 460.310 (2)(b) pursuant to promulgated safety standards not lower than provided by ORS 460.310 to 460.370, it shall by its rules exempt operators from the requirements of ORS 460.310 to 460.370.

(4) The department shall adopt rules to:

(a) Govern the issuance, renewal, suspension and revocation of permits and certificates of competency issued under ORS 460.310 to 460.370.

(b) Govern the internal organization and procedure of the department for administering and enforcing ORS 460.310 to 460.370.

(c) Govern reports by the department's staff of amusement ride inspectors on amusement rides or devices inspected by them.

(d) Set permit fees sufficient to pay but not to exceed the department's costs of carrying out the amusement ride program.

(5) In adopting rules under this section, the department shall consider:

(a) Technological advances in the amusement ride industry.

(b) The practicability of following the standards under consideration, if adopted.

(c) The probability, extent and gravity of the injury to the public or property [*which*] **that** would result from failure to follow the standards under consideration.

(d) Safety standards followed, proposed or approved by responsible members of the amusement ride industry and by [*the American Society of Testing Materials*] **ASTM International**.

NOTE: Updates title of organization in (1) and (5)(d); updates syntax in (5)(c).

SECTION 69. ORS 461.010 is amended to read:

461.010. Unless the context requires otherwise, the definitions contained in this chapter shall govern the construction of this chapter.

[1] "*Lottery*" or "*state lottery*" means the Oregon State Lottery established and operated pursuant to the Constitution of the State of Oregon and this chapter.]

[2] (1) "Commissioner" means one of the members of the lottery commission appointed by the Governor pursuant to the Constitution of the State of Oregon and this chapter to oversee the state lottery.

[3] (2) "Director" means the Director of the Oregon State Lottery appointed by the Governor pursuant to the Constitution of the State of Oregon and this chapter as the chief administrator of the Oregon State Lottery.

(3) "**Lottery**" or "**state lottery**" means the Oregon State Lottery established and operated pursuant to the Constitution of the State of Oregon and this chapter.

(4) "Lottery commission" or "commission" means the five-member body appointed by the Governor pursuant to the Constitution of the State of Oregon and this chapter to oversee the lottery and the director.

(5) "**Lottery contractor**" means a person with whom the state lottery has contracted for the purpose of providing goods and services for the state lottery.

[5] (6) "Lottery game" or "game" means any procedure authorized by the commission whereby prizes are distributed among persons who have paid, or unconditionally agreed to pay, for tickets or shares [*which*] **that** provide the opportunity to win such prizes.

[6] "*Person*" means any natural person or corporation, trust, association, partnership, joint venture, subsidiary or other business entity.]

(7) "Lottery game retailer" means a person with whom the lottery commission has contracted for the purpose of selling tickets or shares in lottery games to the public.

(8) "Lottery vendor" or "vendor" means any person who submits a bid, proposal or offer to provide goods or services to the commission or lottery.

[*(9) "Lottery contractor" means a person with whom the state lottery has contracted for the purpose of providing goods and services for the state lottery.*]

(9) "Person" means any natural person or corporation, trust, association, partnership, joint venture, subsidiary or other business entity.

NOTE: Alphabetizes definitions; updates syntax in (6).

SECTION 70. ORS 468.581 is amended to read:

468.581. As used in ORS 468.581 to 468.587 [*and section 5, chapter 808, Oregon Laws 2009*]:

(1) "Adaptive management mechanisms" means the processes of implementing programs in a scientifically based, systematically structured approach that tests and monitors assumptions and predictions in management activities and then uses the resulting information to improve programs and management activities.

(2) "Ecological values" means clean air, clean and abundant water, fish and wildlife habitat and other values that are generally considered public goods.

(3) "Ecosystem services" means the benefits that human communities enjoy as a result of natural processes and biological diversity.

(4) "Ecosystem services market" means a system in which providers of ecosystem services can access financing to protect, restore and maintain ecological values, including the full spectrum of regulatory, quasi-regulatory and voluntary markets.

(5) "Payment for ecosystem services" means arrangements through which the beneficiaries of ecosystem services pay back the providers of ecosystem services.

NOTE: Deletes reference to repealed law (see section 6, chapter 808, Oregon Laws 2009).

SECTION 71. ORS 469.805 is amended to read:

469.805. (1) The Governor, subject to Senate confirmation pursuant to section 4, Article III of the Oregon Constitution, shall appoint two persons to serve as members of the Pacific Northwest Electric Power and Conservation Planning Council for terms of three years.

(2) In making the appointments under subsection (1) of this section, the Governor shall consider but is not limited to:

(a) Prior experience, training and education as related to the duties and functions of the council and the priorities contained in section 4 of Public Law 96-501.

(b) General knowledge of the concerns, conditions and problems of the physical, social and economic environment of the State of Oregon.

(c) The need for diversity of experience and education related to the functions and duties of the council and priorities of Public Law 96-501.

(3) Of the persons appointed under subsection (1) of this section, not more than one member of the Oregon delegation to the council shall reside within the boundary of an area that includes the First and Third Congressional Districts [*as described in ORS 188.135*] **of this state** and the Portland, Oregon, Metropolitan Statistical Area.

NOTE: Deletes reference to obsolete statute in (3).

SECTION 72. Notwithstanding any other provision of law, ORS 469B.100 to 469B.118, 469B.130 to 469B.169, 469B.171, 469B.250 to 469B.265, 469B.270 to 469B.306, 469B.320 to 469B.347, 469B.400, 469B.403 and 469B.991 shall not be considered to have been added to or made a part of ORS chapter 469 for the purpose of statutory compilation or for the application of definitions, penalties or administrative provisions applicable to statute sections in that chapter.

NOTE: Removes statutes from inappropriate ORS chapter.

SECTION 73. ORS 471.580 is amended to read:

471.580. (1) As used in this section:

(a) "Alcohol equivalence" means the amount of ethanol that would be expected to be present in a beverage based on the standard drink measurement used by the Centers for Disease Control and Prevention.

(b) "Education provider" means:

(A) A community college, as defined in ORS 341.005, offering a food or beverage career program approved by the State Board of Education;

(B) A career school, as defined in ORS 345.010, offering a food or beverage career program approved by the Oregon Student Assistance Commission or the State Board of Education;

(C) [An institution of higher education] **A public university** listed in ORS 352.002 offering a food or beverage career program approved by the State Board of Higher Education; or

(D) A private and independent institution of higher education, as defined in ORS 352.720, offering a food or beverage career program that qualifies for payment under ORS 352.740.

(c) "Food or beverage career program" means a course of study designed to qualify a person for a career in the food service industry or alcoholic beverage industry, including but not limited to a course of study in culinary arts, viticulture, winemaking, enology, brewing or restaurant management.

(2) The charging or payment of tuition or a special fee for enrollment in a class that is part of a food or beverage career program or in a workshop or seminar concerning matters related to food or beverage industry workforce training, offered by an education provider, that includes the consumption of alcoholic beverages for educational purposes, is not a sale or purchase of, or other exchange of consideration for, alcoholic beverages.

(3) Notwithstanding ORS 471.130, 471.406, 471.410 and 471.475, an education provider may serve alcoholic beverages to a person who is 18, 19 or 20 years of age and may allow the person to possess and consume alcoholic beverages on a licensed or unlicensed premises that the education provider uses for educational purposes if:

(a) The person is enrolled as a student in a required or elective class that is part of a food or beverage career program offered by the education provider;

(b) The alcoholic beverages are served to, and possessed and consumed by, the person for educational purposes as part of the class curriculum or a workshop or seminar concerning food or beverage workforce training;

(c) The service, possession and consumption of the alcoholic beverages are supervised by a faculty or staff member of the education provider who is 21 years of age or older;

(d) The person does not purchase the alcoholic beverages; and

(e) The amount served to the person for consumption purposes during any two-hour class, workshop or seminar period does not exceed two ounces of alcohol equivalence.

(4) Notwithstanding ORS 471.130 or 471.410, a person may serve alcoholic beverages to another person who is 18, 19 or 20 years of age on premises that an education provider uses for educational purposes if:

(a) The person served is enrolled as a student in a required or elective class that is part of a food or beverage career program offered by the education provider;

(b) The alcoholic beverages are served to, and consumed by, the person for educational purposes as part of the class curriculum or, with the approval of the education provider, as part of a workshop or seminar concerning food or beverage workforce training;

(c) The service and consumption of the alcoholic beverages are supervised by a faculty or staff member of the education provider who is 21 years of age or older;

(d) The person served does not purchase the alcoholic beverages; and

(e) The amount served to the person for consumption purposes during any two-hour class period does not exceed two ounces of alcohol equivalence.

(5) Notwithstanding ORS 471.130 or 471.410 or the prohibitions in ORS 471.430, a person who is 18, 19 or 20 years of age may possess and consume alcoholic beverages on a licensed or unlicensed premises that an education provider uses for educational purposes if:

(a) The person is enrolled as a student in a required or elective class that is part of a food or beverage career program offered by the education provider;

(b) The person possesses and consumes the alcoholic beverages for educational purposes as part of the class curriculum or, with the approval of the education provider, as part of a workshop or seminar concerning food or beverage workforce training;

(c) The person possesses and consumes the alcoholic beverages under the supervision of a faculty or staff member of the education provider who is 21 years of age or older;

(d) The person does not purchase the alcoholic beverages; and

(e) The amount consumed by the person during any two-hour class, workshop or seminar period does not exceed two ounces of alcohol equivalence.

(6) Notwithstanding ORS 471.410, a person who exercises control over private real property may allow a person who is 18, 19 or 20 years of age to remain on the property after the person who is 18, 19 or 20 years of age consumes an alcoholic beverage on the property in accordance with this section.

(7) Subsections (3) to (5) of this section do not affect the ability of an education provider, a licensee or a permittee to make alcoholic beverages available to a person 21 years of age or older in accordance with this chapter or the ability of a person 21 years of age or older to possess or consume alcoholic beverages in accordance with this chapter.

NOTE: Standardizes terminology in (1)(b)(C) (see chapter 637, Oregon Laws 2011).

SECTION 74. ORS 471.580, as amended by section 44, chapter 104, Oregon Laws 2012, is amended to read:

471.580. (1) As used in this section:

(a) "Alcohol equivalence" means the amount of ethanol that would be expected to be present in a beverage based on the standard drink measurement used by the Centers for Disease Control and Prevention.

(b) "Education provider" means:

(A) A community college, as defined in ORS 341.005, offering a food or beverage career program approved by the State Board of Education;

(B) A career school, as defined in ORS 345.010, offering a food or beverage career program approved by the Oregon Student Assistance Commission or the Higher Education Coordinating Commission;

(C) [*An institution of higher education*] **A public university** listed in ORS 352.002 offering a food or beverage career program approved by the State Board of Higher Education; or

(D) A private and independent institution of higher education, as defined in ORS 352.720, offering a food or beverage career program that qualifies for payment under ORS 352.740.

(c) "Food or beverage career program" means a course of study designed to qualify a person for a career in the food service industry or alcoholic beverage industry, including but not limited to a course of study in culinary arts, viticulture, winemaking, enology, brewing or restaurant management.

(2) The charging or payment of tuition or a special fee for enrollment in a class that is part of a food or beverage career program or in a workshop or seminar concerning matters related to food or beverage industry workforce training, offered by an education provider, that includes the consumption of alcoholic beverages for educational purposes, is not a sale or purchase of, or other exchange of consideration for, alcoholic beverages.

(3) Notwithstanding ORS 471.130, 471.406, 471.410 and 471.475, an education provider may serve alcoholic beverages to a person who is 18, 19 or 20 years of age and may allow the person to possess and consume alcoholic beverages on a licensed or unlicensed premises that the education provider uses for educational purposes if:

(a) The person is enrolled as a student in a required or elective class that is part of a food or beverage career program offered by the education provider;

(b) The alcoholic beverages are served to, and possessed and consumed by, the person for educational purposes as part of the class curriculum or a workshop or seminar concerning food or beverage workforce training;

(c) The service, possession and consumption of the alcoholic beverages are supervised by a faculty or staff member of the education provider who is 21 years of age or older;

(d) The person does not purchase the alcoholic beverages; and

(e) The amount served to the person for consumption purposes during any two-hour class, workshop or seminar period does not exceed two ounces of alcohol equivalence.

(4) Notwithstanding ORS 471.130 or 471.410, a person may serve alcoholic beverages to another person who is 18, 19 or 20 years of age on premises that an education provider uses for educational purposes if:

(a) The person served is enrolled as a student in a required or elective class that is part of a food or beverage career program offered by the education provider;

(b) The alcoholic beverages are served to, and consumed by, the person for educational purposes as part of the class curriculum or, with the approval of the education provider, as part of a workshop or seminar concerning food or beverage workforce training;

(c) The service and consumption of the alcoholic beverages are supervised by a faculty or staff member of the education provider who is 21 years of age or older;

(d) The person served does not purchase the alcoholic beverages; and

(e) The amount served to the person for consumption purposes during any two-hour class period does not exceed two ounces of alcohol equivalence.

(5) Notwithstanding ORS 471.130 or 471.410 or the prohibitions in ORS 471.430, a person who is 18, 19 or 20 years of age may possess and consume alcoholic beverages on a licensed or unlicensed premises that an education provider uses for educational purposes if:

(a) The person is enrolled as a student in a required or elective class that is part of a food or beverage career program offered by the education provider;

(b) The person possesses and consumes the alcoholic beverages for educational purposes as part of the class curriculum or, with the approval of the education provider, as part of a workshop or seminar concerning food or beverage workforce training;

(c) The person possesses and consumes the alcoholic beverages under the supervision of a faculty or staff member of the education provider who is 21 years of age or older;

(d) The person does not purchase the alcoholic beverages; and

(e) The amount consumed by the person during any two-hour class, workshop or seminar period does not exceed two ounces of alcohol equivalence.

(6) Notwithstanding ORS 471.410, a person who exercises control over private real property may allow a person who is 18, 19 or 20 years of age to remain on the property after the person who is 18, 19 or 20 years of age consumes an alcoholic beverage on the property in accordance with this section.

(7) Subsections (3) to (5) of this section do not affect the ability of an education provider, a licensee or a permittee to make alcoholic beverages available to a person 21 years of age or older in accordance with this chapter or the ability of a person 21 years of age or older to possess or consume alcoholic beverages in accordance with this chapter.

NOTE: Standardizes terminology in (1)(b)(C) (see chapter 637, Oregon Laws 2011).

SECTION 75. ORS 496.090 is amended to read:

496.090. (1) There is established a State Fish and Wildlife Commission that shall consist of seven members appointed by the Governor.

(2) The term of office of each member is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(3) All appointments of members of the commission by the Governor are subject to confirmation by the Senate pursuant to section 4, Article III, Oregon Constitution.

(4) One member of the commission shall be appointed from each of the congressional districts [referred to in ORS 188.135] of this state, one member from that portion of the state lying west of

the Cascade Mountains and one member from that portion of the state lying east of the Cascade Mountains.

(5) Members appointed to the commission shall be residents of this state, as defined in ORS 497.002.

(6) All members of the commission shall represent the public interest of the state and make decisions affecting the wildlife resources of the state for the benefit of those resources. Consistent with the requirements of this subsection, the commission shall provide for the productive and sustainable utilization of wildlife resources for all groups of users.

(7) All members of the commission shall have a general knowledge of fish and wildlife issues and an understanding of the operation and functions of public policy boards and commissions. In making appointments to the commission, the Governor shall consider appointing members who possess natural resource backgrounds such as backgrounds in commercial fishing, recreational fishing, hunting, agriculture, forestry and conservation.

(8) Failure of a member to maintain compliance with the eligibility requirements of subsections (4) and (5) of this section shall vacate membership. Members of the commission may otherwise be removed only by the Governor.

(9) A member of the commission is entitled to compensation and expenses as provided in ORS 292.495.

NOTE: Deletes reference to obsolete statute in (4).

SECTION 76. ORS 536.220 is amended to read:

536.220. (1) The Legislative Assembly recognizes and declares that:

(a) The maintenance of the present level of the economic and general welfare of the people of this state and the future growth and development of this state for the increased economic and general welfare of the people thereof are in large part dependent upon a proper utilization and control of the water resources of this state, and such use and control is therefore a matter of greatest concern and highest priority.

(b) A proper utilization and control of the water resources of this state can be achieved only through a coordinated, integrated state water resources policy, through plans and programs for the development of such water resources and through other activities designed to encourage, promote and secure the maximum beneficial use and control of such water resources, all carried out by a single state agency.

(c) The economic and general welfare of the people of this state have been seriously impaired and are in danger of further impairment by the exercise of some single-purpose power or influence over the water resources of this state or portions thereof by each of a large number of public authorities, and by an equally large number of legislative declarations by statute of single-purpose policies with regard to such water resources, resulting in friction and duplication of activity among such public authorities, in confusion as to what is primary and what is secondary beneficial use or control of such water resources and in a consequent failure to utilize and control such water resources for multiple purposes for the maximum beneficial use and control possible and necessary.

(2) The Legislative Assembly, therefore, finds that:

(a) It is in the interest of the public welfare that a coordinated, integrated state water resources policy be formulated and means provided for its enforcement, that plans and programs for the development and enlargement of the water resources of this state be devised and promoted and that other activities designed to encourage, promote and secure the maximum beneficial use and control of such water resources and the development of additional water supplies be carried out by a single state agency [*which*] **that**, in carrying out its functions, shall give proper and adequate consideration to the multiple aspects of the beneficial use and control of such water resources with an impartiality of interest except that designed to best protect and promote the public welfare generally.

(b) The state water resources policy shall be consistent with the goal set forth in ORS 468B.155.

(3)(a) The Water Resources Department shall develop an integrated state water resources strategy to implement the state water resources policy specified in subsection (2) of this section. The department shall design the strategy to meet Oregon's in-stream and out-of-stream water needs.

(b) The Water Resources Department shall work in close cooperation with the Department of Environmental Quality and the State Department of Fish and Wildlife to develop the integrated state water resources strategy in consultation with other state, local and federal agencies, with other states, with Indian tribes, with stakeholders and with the public.

(c) The Water Resources Department, in close cooperation with the Department of Environmental Quality and the State Department of Fish and Wildlife, shall develop data on an ongoing basis to forecast Oregon's in-stream and out-of-stream water needs, including but not limited to in-stream, underground water, human consumption and water supply needs, for the purpose of developing and updating the integrated state water resources strategy.

(d) The integrated **state** water resources strategy shall describe the following:

(A) Oregon's in-stream and out-of-stream water needs, including but not limited to ecosystem services, water quality and water supply needs.

(B) Objectives of the strategy.

(C) Actions that are designed to achieve the objectives of the strategy.

(D) Plans related to the challenges presented by climate change.

(E) Provisions to ensure communication and partnership with key stakeholders.

(F) Specific functions and roles to be played by state agencies, including but not limited to the State Department of Agriculture, the State Forestry Department, the Department of Human Services, the Oregon Business Development Department, the Department of Land Conservation and Development, the Oregon Watershed Enhancement Board, the State Parks and Recreation Department, the Department of State Lands and other relevant state agencies.

(G) Public policy options and recommendations.

(H) Relevant strategy factors, including but not limited to population growth and land use change.

(I) Recommendations of the Water Resources Department regarding the continuous monitoring of climate change effects on Oregon's water supply and regarding water user actions that are necessary to address climate change.

(e)(A) The Water Resources Commission shall give the Environmental Quality Commission, the State Department of Agriculture and the State Department of Fish and Wildlife notice of the integrated state water resources strategy prior to adoption of the strategy. The strategy shall take effect upon adoption by the Water Resources Commission.

(B) The Water Resources Commission shall review and update the integrated state water resources strategy every five years. The Water Resources Commission shall give notice to the Environmental Quality Commission, the State Department of Agriculture and the State Department of Fish and Wildlife prior to adopting any revisions of the strategy. Revisions of the strategy shall take effect upon the Water Resources Commission's adoption of the revised strategy by reference in rule.

(4) This section does not limit the authority granted the Environmental Quality Commission or the Department of Environmental Quality under ORS chapter 468B.

NOTE: Updates syntax in (2)(a); standardizes terminology in (3)(d).

SECTION 77. ORS 539.040 is amended to read:

539.040. (1) As soon as practicable after the examination and measurements are completed, as described in ORS 539.120, the Water Resources Director shall prepare a notice setting forth a place and time certain when the director or the authorized assistant of the director shall begin taking testimony as to the rights of the various claimants to the use of the waters of the stream or its tributaries. The notice shall be published in two issues of one or more newspapers having general circulation in the counties in which the stream is situated, the last publication of the notice to be at least 30 days prior to the beginning of taking testimony by the director or the authorized assistant of the director.

(2) The director shall also send by registered mail or by certified mail with return receipt to each claimant or owner who filed with the director a registration statement as provided in ORS 539.240 and to the Attorney General of the United States or the designated representative of the Attorney General of the United States, on behalf of the United States and its agencies and as trustee for the Indian tribes, a notice similar to that provided in subsection (1) of this section setting forth the date when the director or the authorized assistant of the director will take testimony as to the rights to the use of the water of the stream. The notice must be mailed at least 30 days prior to the date set therein for taking testimony.

(3)(a) For purposes of the Klamath Basin adjudication, the Water Resources Department will provide notice, substantially like that specified in subsection (2) of this section, to claimants or owners who desire to claim a water right under this chapter, or to contest the claims of others, and have so notified the director. The notice shall be accompanied by a blank form on which the claimant or owner shall present in writing all of the particulars necessary for determination of the right of the claimant or owner to contest the claims of others or to the use of the waters of a stream to which the claimant or owner lays claim. That form shall require substantially the same information required in a registration statement, as provided in ORS 539.240 (2), except that the map need not be prepared by a certified water *[rights]* **right** examiner, as required by ORS 539.240 (2)(d).

(b) In the already adjudicated areas of the Klamath Basin, the notice provided to holders of permitted or certificated surface water rights acquired under ORS chapter 537 will specify that they may contest the statement and proof of claims of others made under this chapter, but only in the unadjudicated areas of the Klamath Basin.

NOTE: Standardizes terminology in (3)(a).

SECTION 78. ORS 608.015 is amended to read:

608.015. (1) As used in this section, “open range” means an area wherein livestock may lawfully be permitted to run at large.

(2) A person who permits a horse, mule, ass, sheep, goat or animal of the bovine species to trespass on land enclosed by an adequate fence and situated on open range shall be liable to the owner or lawful possessor of the enclosed land for damage done by the animal. The person seeking to recover the damages shall plead and prove that the fence of the person consisted of structures, masonry, hedges, ditches, rails, poles, planks, rivers, streams, ponds, lakes, wire fences, natural or artificial barriers of any kind or any combination thereof. The adequacy of the fence shall be determined by reference to the customs and practices of good *[husbandmen]* **husbandry** in the particular area with reference to fences. The question of the existence of the fence and the adequacy thereof are questions of fact.

(3) Nothing contained in subsection (2) of this section is intended to modify the provisions of ORS 608.310 to 608.400.

NOTE: Eliminates gender-specific term in (2).

SECTION 79. ORS 646.605 is amended to read:

646.605. As used in ORS 646.605 to 646.652:

(1) “Appropriate court” means the circuit court of a county:

(a) Where one or more of the defendants reside;

(b) Where one or more of the defendants maintain a principal place of business;

(c) Where one or more of the defendants are alleged to have committed an act prohibited by ORS 646.605 to 646.652; or

(d) With the defendant’s consent, where the prosecuting attorney maintains an office.

(2) “Documentary material” means the original or a copy of any book, record, report, memorandum, paper, communication, tabulation, map, chart, photograph, mechanical transcription, or other tangible document or recording, wherever situate.

(3) “Examination” of documentary material *[shall include]* **includes** inspection, study or copying of any such material, and taking testimony under oath or acknowledgment *[in respect of any such]* **regarding any** documentary material or copy thereof.

(4) "Person" means natural persons, corporations, trusts, partnerships, incorporated or unincorporated associations and any other legal entity except bodies or officers acting under statutory authority of this state or the United States.

(5) "Prosecuting attorney" means the Attorney General or the district attorney of any county in which a violation of ORS 646.605 to 646.652 is alleged to have occurred.

(6)(a) "Real estate, goods or services" means those that are or may be obtained primarily for personal, family or household purposes, or that are or may be obtained for any purposes as a result of a telephone solicitation, and includes loans and extensions of credit, and franchises, distributorships and other similar business opportunities, but does not include insurance.

(b) Notwithstanding paragraph (a) of this subsection:

(A) "Real estate" does not cover conduct covered by ORS chapter 90 [except as provided in section 2, chapter 658, Oregon Laws 2003].

(B) "Loans and extensions of credit" does not include transactions involving a pawnbroker, as defined in ORS 726.010, that is required to be licensed under ORS chapter 726.

(7) "Telephone solicitation" means a solicitation where a person, in the course of the person's business, vocation or occupation, uses a telephone or an automatic dialing-announcing device to initiate telephonic contact with a potential customer and the person is not one of the following:

(a) A person who is a broker-dealer or salesperson licensed under ORS 59.175, or a mortgage banker or mortgage broker licensed under ORS 86A.106, when the solicitation is for a security qualified for sale pursuant to ORS 59.055.

(b) A real estate licensee or a person who is otherwise authorized to engage in professional real estate activity pursuant to ORS chapter 696, when the solicitation involves professional real estate activity.

(c) A person licensed or exempt from licensure as a builder pursuant to ORS chapter 701, when the solicitation involves the construction, alteration, repair, improvement or demolition of a structure.

(d) A person licensed or otherwise authorized to sell insurance as an insurance producer pursuant to ORS chapter 744, when the solicitation involves insurance.

(e) A person soliciting the sale of a newspaper of general circulation, a magazine or membership in a book or record club who complies with ORS 646.611, when the solicitation involves newspapers, magazines or membership in a book or record club.

(f) A person soliciting without the intent to complete and who does not complete the sales presentation during the telephone solicitation and who only completes the sales presentation at a later face-to-face meeting between the solicitor and the prospective purchaser.

(g) A supervised financial institution or parent, subsidiary or affiliate thereof. As used in this paragraph, "supervised financial institution" means any financial institution or trust company, as those terms are defined in ORS 706.008, or any personal property broker, consumer finance lender, commercial finance lender or insurer that is subject to regulation by an official or agency of this state or of the United States.

(h) A person who is authorized to conduct prearrangement or preconstruction funeral or cemetery sales, pursuant to ORS chapter 692, when the solicitation involves prearrangement or preconstruction funeral or cemetery plans.

(i) A person who solicits the services provided by a cable television system licensed or franchised pursuant to state, local or federal law, when the solicitation involves cable television services.

(j) A person or affiliate of a person whose business is regulated by the Public Utility Commission of Oregon.

(k) A person who sells farm products as defined by ORS 576.006 if the solicitation neither intends to nor actually results in a sale that costs the purchaser in excess of \$100.

(L) An issuer or subsidiary of an issuer that has a class of securities that is subject to section 12 of the Securities Exchange Act of 1934 and that is either registered or exempt from registration under paragraph (A), (B), (C), (E), (F), (G) or (H) or subsection (g) of that section.

(m) A person soliciting exclusively the sale of telephone answering services to be provided by that person or that person's employer when the solicitation involves answering services.

(n) A telecommunications utility with access lines of 15,000 or less or a cooperative telephone association when the solicitation involves regulated goods or services.

(8) "Trade" and "commerce" mean advertising, offering or distributing, whether by sale, rental or otherwise, any real estate, goods or services, and include any trade or commerce directly or indirectly affecting the people of this state.

(9) "Unconscionable tactics" include, but are not limited to, actions by which a person:

(a) Knowingly takes advantage of a customer's physical infirmity, ignorance, illiteracy or inability to understand the language of the agreement;

(b) Knowingly permits a customer to enter into a transaction from which the customer will derive no material benefit;

(c) Permits a customer to enter into a transaction with knowledge that there is no reasonable probability of payment of the attendant financial obligation in full by the customer when due; or

(d) Knowingly takes advantage of a customer who is a disabled veteran, a disabled servicemember or a servicemember in active service, or the spouse of a disabled veteran, disabled servicemember or servicemember in active service. For purposes of this paragraph:

(A) "Disabled veteran" has the meaning given that term in ORS 408.225.

(B) "Disabled servicemember" means a servicemember, as defined in 50 U.S.C. App. 511 as in effect on January 1, 2010, who may be entitled to disability compensation under laws administered by the United States Department of Veterans Affairs.

(C) "Servicemember in active service" means:

(i) A servicemember called into active service under Title 10 or Title 32 of the United States Code as in effect on January 1, 2010; or

(ii) A servicemember on active state duty, as defined in ORS 398.002.

(10) A willful violation occurs when the person committing the violation knew or should have known that the conduct of the person was a violation.

(11) A loan is made "in close connection with the sale of a manufactured dwelling" if:

(a) The lender directly or indirectly controls, is controlled by or is under common control with the seller, unless the relationship is remote and is not a factor in the transaction;

(b) The lender gives a commission, rebate or credit in any form to a seller who refers the borrower to the lender, other than payment of the proceeds of the loan jointly to the seller and the borrower;

(c) The lender is related to the seller by blood or marriage;

(d) The seller directly and materially assists the borrower in obtaining the loan;

(e) The seller prepares documents that are given to the lender and used in connection with the loan; or

(f) The lender supplies documents to the seller used by the borrower in obtaining the loan.

NOTE: Improves syntax and word choice in (3); deletes reference to repealed law in (6)(b)(A); corrects punctuation in (7)(a).

SECTION 80. ORS 646.605, as amended by section 12, chapter 658, Oregon Laws 2003, section 199, chapter 71, Oregon Laws 2007, section 32, chapter 319, Oregon Laws 2007, section 2, chapter 215, Oregon Laws 2009, and section 2, chapter 94, Oregon Laws 2010, is amended to read:

646.605. As used in ORS 646.605 to 646.652:

(1) "Appropriate court" means the circuit court of a county:

(a) Where one or more of the defendants reside;

(b) Where one or more of the defendants maintain a principal place of business;

(c) Where one or more of the defendants are alleged to have committed an act prohibited by ORS 646.605 to 646.652; or

(d) With the defendant's consent, where the prosecuting attorney maintains an office.

(2) "Documentary material" means the original or a copy of any book, record, report, memorandum, paper, communication, tabulation, map, chart, photograph, mechanical transcription, or other tangible document or recording, wherever situate.

(3) "Examination" of documentary material [*shall include*] **includes** inspection, study or copying of any such material, and taking testimony under oath or acknowledgment [*in respect of any such*] **regarding any** documentary material or copy thereof.

(4) "Person" means natural persons, corporations, trusts, partnerships, incorporated or unincorporated associations and any other legal entity except bodies or officers acting under statutory authority of this state or the United States.

(5) "Prosecuting attorney" means the Attorney General or the district attorney of any county in which a violation of ORS 646.605 to 646.652 is alleged to have occurred.

(6)(a) "Real estate, goods or services" means those that are or may be obtained primarily for personal, family or household purposes, or that are or may be obtained for any purposes as a result of a telephone solicitation, and includes loans and extensions of credit, and franchises, distributorships and other similar business opportunities, but does not include insurance.

(b) Notwithstanding paragraph (a) of this subsection:

(A) "Real estate" does not cover conduct covered by ORS chapter 90.

(B) "Loans and extensions of credit" does not include transactions involving a pawnbroker, as defined in ORS 726.010, that is required to be licensed under ORS chapter 726.

(7) "Telephone solicitation" means a solicitation where a person, in the course of the person's business, vocation or occupation, uses a telephone or an automatic dialing-announcing device to initiate telephonic contact with a potential customer and the person is not one of the following:

(a) A person who is a broker-dealer or salesperson licensed under ORS 59.175, or a mortgage banker or mortgage broker licensed under ORS 86A.106, when the solicitation is for a security qualified for sale pursuant to ORS 59.055.

(b) A real estate licensee or a person who is otherwise authorized to engage in professional real estate activity pursuant to ORS chapter 696, when the solicitation involves professional real estate activity.

(c) A person licensed or exempt from licensure as a builder pursuant to ORS chapter 701, when the solicitation involves the construction, alteration, repair, improvement or demolition of a structure.

(d) A person licensed or otherwise authorized to sell insurance as an insurance producer pursuant to ORS chapter 744, when the solicitation involves insurance.

(e) A person soliciting the sale of a newspaper of general circulation, a magazine or membership in a book or record club who complies with ORS 646.611, when the solicitation involves newspapers, magazines or membership in a book or record club.

(f) A person soliciting without the intent to complete and who does not complete the sales presentation during the telephone solicitation and who only completes the sales presentation at a later face-to-face meeting between the solicitor and the prospective purchaser.

(g) A supervised financial institution or parent, subsidiary or affiliate thereof. As used in this paragraph, "supervised financial institution" means any financial institution or trust company, as those terms are defined in ORS 706.008, or any personal property broker, consumer finance lender, commercial finance lender or insurer that is subject to regulation by an official or agency of this state or of the United States.

(h) A person who is authorized to conduct prearrangement or preconstruction funeral or cemetery sales, pursuant to ORS chapter 692, when the solicitation involves prearrangement or preconstruction funeral or cemetery plans.

(i) A person who solicits the services provided by a cable television system licensed or franchised pursuant to state, local or federal law, when the solicitation involves cable television services.

(j) A person or affiliate of a person whose business is regulated by the Public Utility Commission of Oregon.

(k) A person who sells farm products as defined by ORS 576.006 if the solicitation neither intends to nor actually results in a sale that costs the purchaser in excess of \$100.

(L) An issuer or subsidiary of an issuer that has a class of securities that is subject to section 12 of the Securities Exchange Act of 1934 and that is either registered or exempt from registration under paragraph (A), (B), (C), (E), (F), (G) or (H) or subsection (g) of that section.

(m) A person soliciting exclusively the sale of telephone answering services to be provided by that person or that person's employer when the solicitation involves answering services.

(n) A telecommunications utility with access lines of 15,000 or less or a cooperative telephone association when the solicitation involves regulated goods or services.

(8) "Trade" and "commerce" mean advertising, offering or distributing, whether by sale, rental or otherwise, any real estate, goods or services, and include any trade or commerce directly or indirectly affecting the people of this state.

(9) "Unconscionable tactics" include, but are not limited to, actions by which a person:

(a) Knowingly takes advantage of a customer's physical infirmity, ignorance, illiteracy or inability to understand the language of the agreement;

(b) Knowingly permits a customer to enter into a transaction from which the customer will derive no material benefit;

(c) Permits a customer to enter into a transaction with knowledge that there is no reasonable probability of payment of the attendant financial obligation in full by the customer when due; or

(d) Knowingly takes advantage of a customer who is a disabled veteran, a disabled servicemember or a servicemember in active service, or the spouse of a disabled veteran, disabled servicemember or servicemember in active service. For purposes of this paragraph:

(A) "Disabled veteran" has the meaning given that term in ORS 408.225.

(B) "Disabled servicemember" means a servicemember, as defined in 50 U.S.C. App. 511 as in effect on January 1, 2010, who may be entitled to disability compensation under laws administered by the United States Department of Veterans Affairs.

(C) "Servicemember in active service" means:

(i) A servicemember called into active service under Title 10 or Title 32 of the United States Code as in effect on January 1, 2010; or

(ii) A servicemember on active state duty, as defined in ORS 398.002.

(10) A willful violation occurs when the person committing the violation knew or should have known that the conduct of the person was a violation.

(11) A loan is made "in close connection with the sale of a manufactured dwelling" if:

(a) The lender directly or indirectly controls, is controlled by or is under common control with the seller, unless the relationship is remote and is not a factor in the transaction;

(b) The lender gives a commission, rebate or credit in any form to a seller who refers the borrower to the lender, other than payment of the proceeds of the loan jointly to the seller and the borrower;

(c) The lender is related to the seller by blood or marriage;

(d) The seller directly and materially assists the borrower in obtaining the loan;

(e) The seller prepares documents that are given to the lender and used in connection with the loan; or

(f) The lender supplies documents to the seller used by the borrower in obtaining the loan.

NOTE: Improves syntax and word choice in (3); corrects punctuation in (7)(a).

SECTION 81. Section 13, chapter 658, Oregon Laws 2003, as amended by section 41, chapter 906, Oregon Laws 2007, and section 22, chapter 503, Oregon Laws 2011, is repealed.

NOTE: Repeals obsolete operative date for amendments to ORS 646.605. See sections 79 and 80 (amending ORS 646.605).

SECTION 82. Notwithstanding any other provision of law, ORS 646.736, 646.737, 646.738 and 646.739 shall not be considered to have been added to or made a part of ORS chapter 62 for the purpose of statutory compilation or for the application of definitions, penalties or administrative provisions applicable to statute sections in that chapter.

NOTE: Removes statutes from inappropriate ORS chapter.

SECTION 83. ORS 646.951 is amended to read:

646.951. (1) The Director of Agriculture may test motor vehicle fuel for the purpose of inspecting the motor vehicle fuel supply of any service station, business or other establishment that sells or offers for sale, or distributes, transports, hauls, delivers or stores motor vehicle fuel that is subsequently sold or offered for sale, for compliance with the motor vehicle fuel quality standards adopted pursuant to ORS 646.957.

(2) The director or the director's authorized agent shall have access during normal business hours to all places where motor vehicle fuel is sold to or by a retail dealer, nonretail dealer or wholesale dealer for the purpose of examination, inspection and investigation of the establishment's motor vehicle fuel supply, shall collect or cause to be collected samples of the motor vehicle fuel and shall test or analyze the samples for compliance with motor vehicle fuel quality standards adopted pursuant to ORS 646.957.

(3) Before taking any enforcement action under ORS 646.953 or 646.963, the director shall cause motor vehicle fuel samples to be tested in accordance with standards, reproducibility limits and procedures that are, in the director's judgment, consistent with [*American Society for Testing and Materials*] **ASTM International** standards and procedures.

(4) The director or the director's authorized agent shall notify the owner or person in charge of the facility of the sample collection as soon as is practicable after a sample is taken. The volume of the sample taken for testing must be adequate for the tests to be performed and to allow for a portion of the sample to be retained for subsequent testing, if the need arises. A sample with a test result that is outside the test reproducibility limits, when compared to the applicable limits, shall be properly stored to preserve the sample for at least 90 days.

NOTE: Updates title of organization in (3).

SECTION 84. ORS 646.957 is amended to read:

646.957. (1) In accordance with any applicable provision of ORS chapter 183, the Director of Agriculture, not later than December 1, 1997, shall adopt rules to carry out the provisions of ORS 646.947 to 646.963. Such rules may include, but are not limited to, motor vehicle fuel grade advertising, pump grade labeling, testing procedures, quality standards and identification requirements for motor vehicle fuels and ethanol, biodiesel and other renewable diesel, as those terms are defined in ORS 646.905. Rules adopted by the director under this section shall be consistent, to the extent the director considers appropriate, with the most recent standards adopted by [*the American Society for Testing and Materials*] **ASTM International**. As standards of [*the society*] **ASTM International** are revised, the director shall revise the rules in a manner consistent with the revisions unless the director determines that those revised rules will significantly interfere with the director's ability to carry out the provisions of ORS 646.947 to 646.963. Rules adopted pursuant to this section must adequately protect confidential business information and trade secrets that the director or the director's authorized agent may discover when inspecting books, papers and records pursuant to ORS 646.955.

(2) Testing requirements, specifications and frequency of testing for each production lot of biodiesel, biodiesel blend or other renewable diesel produced in or brought into this state shall be defined by the director by rule.

NOTE: Updates title of organization in (1).

SECTION 85. ORS 657.335 is amended to read:

657.335. As used in ORS 657.335 to 657.360:

[(1) "*Eligible dislocated workers*" means individuals who are not disqualified from benefits under ORS 657.176 and who:]

[(a) *Have been terminated or laid off or who have received a notice of termination or layoff, are eligible for or have exhausted their entitlement to unemployment compensation and are unlikely to return to their previous industry or occupation;*]

[(b) *Have been terminated or have received a notice of termination of employment, as a result of any permanent closure of or any substantial layoff at a plant, facility or enterprise;*]

[(c) Are long term unemployed and have limited opportunities for employment or reemployment in the same or a similar occupation in the area in which such individuals reside, including older individuals who may have substantial barriers to employment by reason of age;]

[(d) Were self-employed, including farmers and ranchers, and are unemployed as a result of general economic conditions in the community in which they reside or because of natural disasters;]

[(e) Returned to service in the Oregon National Guard or the military reserve forces of the United States following active duty service;]

[(f) Have separated from a declining industry; or]

[(g) Have been involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at their place of employment.]

[(2)] (1) “Career and technical training” means training or retraining and basic education, including literacy skills, designed to prepare individuals for gainful employment in recognized or new occupations or to prepare individuals to become self-employed. [The term] “Career and technical training” does not include programs of instruction for an individual, including transfer credit programs of instruction given at community colleges, that are primarily intended to lead toward a baccalaureate or higher degree or training that has for its purpose the preparation of individuals for employment in occupations that require a baccalaureate or higher degree from institutions of higher education unless approved by the Director of the Employment Department.

(2) “Eligible dislocated workers” means individuals who are not disqualified from benefits under ORS 657.176 and who:

(a) Have been terminated or laid off or who have received a notice of termination or layoff, are eligible for or have exhausted their entitlement to unemployment compensation and are unlikely to return to their previous industry or occupation;

(b) Have been terminated or have received a notice of termination of employment, as a result of any permanent closure of or any substantial layoff at a plant, facility or enterprise;

(c) Are long term unemployed and have limited opportunities for employment or reemployment in the same or a similar occupation in the area in which such individuals reside, including older individuals who may have substantial barriers to employment by reason of age;

(d) Were self-employed, including farmers and ranchers, and are unemployed as a result of general economic conditions in the community in which they reside or because of natural disasters;

(e) Returned to service in the Oregon National Guard or the military reserve forces of the United States following active duty service;

(f) Have separated from a declining industry; or

(g) Have been involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at their place of employment.

NOTE: Alphabetizes definitions; sets forth defined term in (1).

SECTION 86. ORS 671.425 is amended to read:

671.425. If the State Landscape Architect Board revokes the registration of a registered landscape architect under ORS 671.404, the board may issue registration under ORS 671.310 to 671.459 to the individual whose registration is revoked if the individual:

(1) Files a new application for the registration and passes an examination given by the board; and

(2) Establishes to the satisfaction of the board that all loss caused by the acts for which the *[license]* **registration** was revoked has been fully satisfied and that the individual has complied with all conditions imposed by the decision of revocation.

NOTE: Corrects terminology in (2).

SECTION 87. ORS 684.040, as amended by section 14, chapter 43, Oregon Laws 2012, is amended to read:

684.040. (1) Any person applying for a license to practice chiropractic in this state shall make application to the State Board of Chiropractic Examiners, upon such form and in such manner as may be provided by the board. The application must be accompanied by nonrefundable fees of:

(a) \$150; and

(b) The amount established by the board by rule under ORS 181.534.

(2) Each applicant shall furnish to the board:

(a) Evidence satisfactory to the board of the applicant's good moral character.

(b) A certificate of proficiency in the fundamental sciences (Part I, taken subsequent to January 1, 1971) issued to the applicant by the National Board of Chiropractic Examiners.

(c) Evidence of successful completion of at least two years of liberal arts and sciences study, in any college or university accredited by either the [*Northwest Association of Schools and Colleges*] **Northwest Commission on Colleges and Universities or its successor**, or a like regional association, or in any college or university in Oregon approved for granting degrees by the Oregon Student Access Commission.

(d) A diploma and transcript, certified by the registrar, or other documents satisfactory to the State Board of Chiropractic Examiners evidencing graduation from a chiropractic school or college approved by the board under the board's academic standards, or from a school accredited by the Council on Chiropractic Education or its successor agency, under standards that are accepted and adopted biennially by the board in the version applied to that school by the accrediting agency.

(e) A statement of any other health care provider license in this state held by the applicant, with identifying information required by the State Board of Chiropractic Examiners.

(3) An applicant meets the requirements of subsection (2)(c) or (d) of this section if the applicant provides the State Board of Chiropractic Examiners with documentation of military training or experience that the board determines is substantially equivalent to the education required by subsection (2)(c) or (d) of this section.

(4) The State Board of Chiropractic Examiners may waive the requirements of subsection (2)(c) of this section for any applicant for a license to practice chiropractic if the applicant is licensed in another state and practiced chiropractic in that state, but the applicant must pass the examination authorized by ORS 684.050 or by ORS 684.052.

NOTE: Updates title of accrediting organization in (2)(c).

SECTION 88. ORS 685.060 is amended to read:

685.060. (1) The minimum educational requirements for a license under the provisions of this chapter are:

(a) At least two years' satisfactory liberal arts and sciences study, or either, in a college or university accredited by either the [*Northwest Association of Schools and Colleges*] **Northwest Commission on Colleges and Universities or its successor**, or a like regional association or in a college or university in Oregon approved for granting degrees by the Oregon Student Access Commission as evidenced by certificate or transcript of credits from the college or university; and

(b) Graduation from an accredited naturopathic school or college.

(2)(a) The areas of study required of an applicant for a license to practice naturopathic medicine in this state include basic sciences, clinical sciences and any naturopathic subjects specified by the Oregon Board of Naturopathic Medicine by rule.

(b) The Oregon Board of Naturopathic Medicine may not include major surgery as a required area of study under paragraph (a) of this subsection.

NOTE: Updates title of accrediting organization in (1)(a).

SECTION 89. ORS 688.132 is amended to read:

688.132. (1) A licensed physical therapist shall immediately refer a person to a medical doctor, osteopathic physician, chiropractic physician, podiatric physician and surgeon, naturopathic physician, dentist, physician assistant or nurse practitioner if:

(a) Signs or symptoms are present that require treatment or diagnosis by such providers or for which physical therapy is contraindicated or for which treatment is outside the knowledge of the physical therapist or scope of practice of physical therapy; or

(b) The physical therapist continues therapy and 60 days have passed since the initial physical therapy treatment has been administered, unless:

(A) The individual is a child or a student eligible for special education, as defined by state or federal law, and is being seen pursuant to the child's or the student's [*individual education plan*] **individualized education program** or [*individual*] **individualized** family service plan;

(B) The individual is a student athlete at a public or private school, college or university and is seeking treatment in that role as athlete; or

(C) The individual is a resident of a long term care facility as defined in ORS 442.015, a residential facility as defined in ORS 443.400, an adult foster home as defined in ORS 443.705 or an intermediate care facility for mental retardation pursuant to federal regulations.

(2) Notwithstanding any provision of ORS 742.518 to 742.542, personal injury protection benefits are not required to be paid for physical therapy treatment of a person covered by the applicable insurance policy unless the person is referred to the physical therapist by a licensed physician, podiatric physician and surgeon, naturopathic physician, dentist, physician's assistant or nurse practitioner.

NOTE: Standardizes terminology in (1)(b)(A) (see ORS 343.035 (7) and (8)).

SECTION 90. ORS 701.348 is amended to read:

701.348. (1) Every person offering to undertake or undertaking construction of building sewer piping shall comply with the requirements of ORS chapter 701.

(2) Every person submitting a bid or a written estimate of the costs to construct building sewer piping shall provide to potential customers, prior to an agreement to perform, the following:

(a) The person's Construction Contractors Board license number;

(b) The applicable bonding and liability coverage; and

(c) The statement described in ORS 701.325 (1).

(3) Any person licensed under ORS [701.026] **701.021** may install a building sewer after obtaining a permit for plumbing inspection under ORS 447.095.

(4) As used in this section, "building sewer" means that part of the system of drainage piping that conveys sewage into a septic tank, cesspool or other treatment unit that begins five feet outside the building or structure within which the sewage originates.

NOTE: Corrects citation in (3).

SECTION 91. ORS 741.340 and 741.381 are added to and made a part of ORS 741.001 to 741.540.

NOTE: Adds statutes to appropriate series.

SECTION 92. ORS 743.777 (7) is added to and made a part of the Insurance Code.

NOTE: Adds subsection to appropriate code.

SECTION 93. ORS 743.777 is amended to read:

743.777. (1) As used in [*subsections (2) to (6) of*] this section:

(a) "Explanation of benefits" means claim processing advice or notification of action on claims.

(b) "Payment, remittance and reconciliation information" means all information required for premium billing or invoicing, facilitating timely electronic payment of premiums due, delinquency notification, final billing notification or termination of coverage.

(c) "Plan renewal information" means all correspondence and materials related to an offer to renew insurance provided by an insurer to a health insurance purchaser.

(d) "Quote information" means all correspondence and materials related to an offer to insure or a rate quotation provided by an insurer to a health insurance purchaser.

(e) "Sale and enrollment information" means all information documenting the sale of a policy or certificate of health insurance, the renewal of a policy or certificate of health insurance, the enrollment of members in a group health insurance plan or the enrollment of an individual in an individual health insurance plan, including but not limited to:

(A) The application for insurance;

(B) Initial and ongoing documentation required by the insurer to be provided by an insured to establish eligibility and enrollment, adjudicate and process claims and prove prior creditable coverage or duplicate coverage;

(C) Premium information;

(D) Documentation of the payment of a premium; and

(E) Membership identification cards.

(2) In the administration of small employer group health insurance or individual health insurance, an insurer may communicate one or more of the following by electronic means:

(a) Quote information.

(b) Sale and enrollment information.

(c) Payment, remittance and reconciliation information.

(d) Explanation of benefits.

(e) Plan renewal information.

(f) Notifications required by law.

(g) Other communications, documentation, revisions or materials otherwise provided on paper.

(3) Electronic administration of small employer group or individual health insurance plans shall be transacted using secure systems specifically designed by the insurer for the purpose of electronic health insurance administration.

(4) An insurer who elects to offer discounted rates for a health insurance plan utilizing electronic administration shall include the schedule of discounts for utilization of electronic administration as part of a small employer group health insurance or individual health insurance rate filing. The rate discounts may be graduated and must be proportionate to the amount of administrative cost savings the insurer anticipates as a result of the use of electronic transactions described in [subsections (2) and (3) of] this section.

(5) Discounted rates allowed under [subsections (4) to (6) of] this section shall be applied uniformly to all similarly situated small employer group or individual health insurance purchasers of an insurer.

(6) Discounts in premium rates under [subsections (4) to (6) of] this section are not premium rate variations for purposes of ORS 743.737 (11) or 743.767.

(7) [Subsections (1) to (6) of] This section [do] **does** not require an insurer to offer discounted rates for a health insurance plan utilizing electronic administration or require a small employer group or an individual health insurance purchaser to use electronic administration.

NOTE: Streamlines internal references in (1) and (4) to (7).

SECTION 94. ORS 774.070 is amended to read:

774.070. (1) The Citizens' Utility Board of Governors shall be [comprised] **composed** of three persons elected from each congressional district [described in ORS 188.135] **of this state** by a majority of the votes cast by members residing in that district. The election shall be conducted by mail ballot in such manner as the Citizens' Utility Board of Governors may prescribe.

(2) The term of office of a member of the Citizens' Utility Board of Governors is four years. [No] **A** person may **not** serve more than two consecutive terms on the Citizens' Utility Board of Governors.

(3) Each candidate and each member of the Citizens' Utility Board of Governors must be a member of the Citizens' Utility Board and must be a resident of the district from which the candidate seeks to be or is elected.

(4) At least 45 days before an election, each candidate shall file with the Citizens' Utility Board of Governors a statement of financial interests, which shall contain the information in such form as the Citizens' Utility Board of Governors shall determine. Each candidate shall maintain a complete record of contributions received and expenditures made with regard to an election campaign. Each candidate shall make the records available for public inspection at such reasonable times as the Citizens' Utility Board of Governors considers appropriate.

(5) [No] **A** member who is employed by a utility [shall be] **is not** eligible for appointment or election to the Citizens' Utility Board of Governors, and [no] **a** member of the Citizens' Utility Board

of Governors who obtains employment by a utility may **not** maintain a position on the Citizens' Utility Board of Governors. While on the board, [no] a director elected under this section may **not** hold elective public office, be a candidate for any elective public office[,] or be a state public official. [No] A person who owns or controls, either singly or in combination with any immediate family member, utility stocks or bonds of a total value in excess of \$3,000 is **not** eligible to serve as an elected member of the Citizens' Utility Board of Governors.

(6) The Citizens' Utility Board of Governors may disqualify any candidate or member of the Citizens' Utility Board of Governors for any violation of this chapter or of the bylaws of the Citizens' Utility Board.

(7) Upon petition signed by 20 percent of the members in a district for the recall of a member of the Citizens' Utility Board of Governors elected from the district, the Citizens' Utility Board of Governors shall mail ballots to each member in the district, submitting the question whether the member of the Citizens' Utility Board of Governors shall be recalled. If a majority of the members voting at the election vote in favor of the recall, then the member of the Citizens' Utility Board of Governors shall be recalled. Elections and recall proceedings shall be conducted in a manner as the Citizens' Utility Board of Governors may prescribe. Ballots for all election and recall proceedings shall be counted at a regular meeting of the Citizens' Utility Board of Governors.

(8) The remaining members of the Citizens' Utility Board of Governors shall have the power to fill vacancies on the Citizens' Utility Board of Governors.

NOTE: Corrects word choice and deletes reference to obsolete statute in (1); updates syntax in (2) and (5); corrects punctuation in (4) and (5).

SECTION 95. ORS 802.110 is amended to read:

802.110. Any procedures the Department of Transportation establishes for financial administration of those functions of the department dealing with driver and motor vehicle services and for the disposition and payment of moneys it receives from the provision of driver and motor vehicle services shall comply with all of the following:

(1) The department shall deposit all moneys it receives related to driver and motor vehicle services in the Department of Transportation Driver and Motor Vehicle Suspense Account for approved expenses and disbursements before payment of general administrative expenses of the department related to the provision of driver and motor vehicle services. Notwithstanding this subsection, the department may return a bank check or money order when received in incorrect or incomplete form or when not accompanied by the proper application.

(2) The department shall pay the following approved expenses and disbursements from the Department of Transportation Driver and Motor Vehicle Suspense Account before payment of the general administrative expenses of the department related to driver and motor vehicle services:

(a) Refunds authorized by any statute administered by the department when such refunds are approved by the department.

(b) Amounts transferred to the State Treasurer under ORS 319.410 (2) for the purpose of carrying out the state aviation laws, amounts transferred to the Boating Safety, Law Enforcement and Facility Account by ORS 319.415, amounts transferred to the State Aviation Account by ORS 319.417 and amounts transferred to the Department of Transportation Operating Fund by ORS 184.643.

(c) After deduction of expenses of collection, transfer and administration, the department shall pay moneys collected from the Student Driver Training Fund eligibility fee under ORS 807.040, 807.150 and 807.370 to the State Treasurer for deposit in the Student Driver Training Fund. The moneys deposited in the Student Driver Training Fund under this paragraph are continuously appropriated to the department for the following purposes:

(A) To the extent of not more than 10 percent of the amount transferred into the Student Driver Training Fund in any biennium, to pay the expenses of administering ORS 336.795, 336.800, 336.805, 336.810 (2) and 336.815.

(B) The remaining moneys, for reimbursing school districts and commercial driver training schools as provided under ORS 336.805.

(d) After deduction of expenses of collection, transfer and administration, the department shall pay moneys collected for the Motorcycle Safety Subaccount under ORS 807.170 to the State Treasurer for deposit in the Motorcycle Safety Subaccount of the Transportation Safety Account. Moneys paid to the State Treasurer under this paragraph shall be used for the purpose of ORS 802.320.

(e) After deduction of expenses for the administration of the issuance of customized registration plates under ORS 805.240, the department shall place moneys received from the sale of customized registration plates in the Passenger Rail Transportation Account. The moneys placed in the account are continuously appropriated to the department and shall be used for the payment of expenses incurred in administering passenger rail programs.

(f) After deduction of expenses of collection, transfer and administration, the department shall pay moneys from any registration fees established by the governing bodies of counties or a district, as defined in ORS 801.237, under ORS 801.041 or 801.042 to the appropriate counties or districts. The department shall make the payments on at least a monthly basis unless another basis is established by the intergovernmental agreements required by ORS 801.041 and 801.042 between the department and the governing bodies of a county or a district.

(g) After deducting the expenses of the department in collecting and transferring the moneys, the department shall make disbursements and payments of moneys collected for or dedicated to any other purpose or fund except the State Highway Fund, including but not limited to, payments to the Department of Transportation Operating Fund established by ORS 184.642 (1) and (2).

(3) The department shall refund from the Department of Transportation Driver and Motor Vehicle Suspense Account any excess or erroneous payment to a person who made the payment or to the person's legal representative when the department determines that money has been received by it in excess of the amount legally due and payable or that it has received money in which it has no legal interest. Refunds payable under this subsection are continuously appropriated for such purposes in the manner for payment of refunds under this section. If the department determines that a refund is due, the department may refund the amount of excess or erroneous payment without a claim being filed. Except as provided in ORS 319.290, 319.375, 319.820 and 319.831, any claim for a refund from the department must be filed within 12 months after the date payment is received by the department.

(4) After payment of those expenses and disbursements approved for payment before general administrative expenses related to the provision of driver and motor vehicle services, the department shall pay from the Department of Transportation Driver and Motor Vehicle Services Administrative Account its general administrative expenses incurred in the administration of any law related to driver and motor vehicle services that the department is charged with administering and any other expenses the department is permitted by law to pay from moneys held by the department before transfer of the moneys to the State Highway Fund. The following limitations apply to payments of administrative expenses under this subsection:

(a) The department shall make payment of the expenses of administering the issuance of winter recreation parking permits under ORS 811.595 from those moneys received from issuing the permits.

(b) The department shall pay its expenses for administering the registration and titling of snowmobiles under ORS 821.060 and 821.100 from the fees collected from administering those sections. The department shall also pay its expenses for the administration of the snowmobile driver permit program under ORS 821.160 from the moneys otherwise described in this paragraph.

(c) The department shall pay its expenses for determining the amount of money to be withheld under ORS 802.120 from the fees collected for administering the registration and titling of snowmobiles. The amount used to pay expenses under this paragraph shall be such sum as necessary but *[shall]* **may** not exceed \$10,000 during each biennium.

(d) The department shall retain not more than \$15,000 in any biennium for the expenses of collecting and transferring moneys to the Student Driver Training Fund under this section and for the administration of ORS 336.810 (3).

(5) Except as otherwise provided in this subsection, the department shall transfer to the State Highway Fund the moneys not used for payment of the general administrative expenses or for ap-

proved expenses and disbursements before payment of general administrative expenses. The following apply to this subsection:

(a) If the Director of Transportation certifies the amount of principal or interest of highway bonds due on any particular date, the department may make available for the payment of such interest or principal any sums that may be necessary to the extent of moneys on hand available for the State Highway Fund regardless of the dates otherwise specified under this section.

(b) Notwithstanding paragraph (a) of this subsection, the department *[shall]* **may** not make available for purposes described in paragraph (a) of this subsection any moneys described in ORS 367.605 when there are not sufficient amounts of such moneys in the State Highway Fund for purposes of bonds issued under ORS 367.615.

(6) Notwithstanding any other provision of this section, the following moneys shall be transferred to the State Highway Fund at the times described:

(a) Moneys received under ORS 802.120 and not used for the payment of administrative expenses of the department shall be transferred before July 31 of each year.

(b) Moneys received from the registration of snowmobiles that *[is]* **are** not to be used for payment of administrative expenses of the department shall be transferred within 30 days after the end of the quarter.

(c) Moneys received from the issuance of winter recreation parking permits that *[is]* **are** not used for payment of administrative expenses of the department shall be transferred within 30 days after the end of the quarter.

(7) The following moneys transferred to the State Highway Fund under this section may be used only for the purposes described as follows:

(a) Moneys collected from the issuance of winter recreation parking permits, and the interest on such moneys, shall be used to enforce the requirement for winter recreation parking permits and to remove snow from winter recreation parking locations designated under ORS 810.170. Any remaining moneys shall, upon approval by the Winter Recreation Advisory Committee:

(A) Be used to maintain parking locations developed with moneys obtained under ORS 810.170 and snowmobile facilities that are parking lots developed with moneys as provided under this section;

(B) Be used to develop additional winter recreation parking locations under ORS 810.170; or

(C) Be carried over to be used in subsequent years for the purposes and in the manner described in this paragraph.

(b) Moneys received from the registration of snowmobiles or under ORS 802.120 may be used for development and maintenance of multiuse trails within urban growth boundaries described in ORS 367.017 or for the development and maintenance of snowmobile facilities, including the acquisition of land therefor by any means other than the exercise of eminent domain. Moneys received under ORS 802.120 may also be used for the enforcement of ORS 811.590, 821.100 to 821.120, 821.140, 821.150, 821.190, 821.210 and 821.240 to 821.290.

(8) The department shall maintain the Revolving Account for Emergency Cash Advances separate from other moneys described in this section. From the account, the department may pay for the taking up of dishonored remittances returned by banks or the State Treasurer and for emergency cash advances to be subsequently reimbursed. The account shall be used only as a revolving fund. The department shall at all times be accountable for the amount of the account, either in cash or unreimbursed items and advances. The moneys in the account are continuously appropriated for the purposes of this subsection. The amount of **moneys in** the account under this subsection *[shall]* **may** not exceed \$40,000 from moneys received by the department in the performance of its driver and motor vehicle services functions and moneys otherwise appropriated for purposes of this subsection. The account under this subsection shall be kept on deposit with the State Treasurer. The State Treasurer is authorized to honor and pay all properly signed and indorsed checks or warrants drawn against the account.

NOTE: Updates syntax in (4)(c), (5)(b) and (8); adds proper punctuation in (5)(b); corrects grammar in (6)(b) and (c); provides missing verbiage in (8).

SECTION 96. Notwithstanding any other provision of law, ORS 810.243 shall not be considered to have been added to or made a part of ORS chapter 811 for the purpose of statutory compilation or for the application of definitions, penalties or administrative provisions applicable to statute sections in that chapter.

NOTE: Removes statute from inappropriate ORS chapter.

SECTION 97. ORS 830.990 is amended to read:

830.990. (1)(a) Violation of ORS 830.565 by a person operating a manually propelled boat is a Class D violation. Notwithstanding ORS 153.019, the presumptive fine for a violation of ORS 830.565 **by a person operating a manually propelled boat** is \$30.

(b) Violation of ORS 830.565 by a person operating a motorboat is [*punishable as*] a Class D violation. Notwithstanding ORS 153.019, the presumptive fine for a violation of ORS 830.565 **by a person operating a motorboat** is \$50.

(2) A person who violates ORS 830.050, 830.088, 830.090, 830.092, 830.094, 830.230, 830.415, 830.710, 830.720, 830.770, 830.780, 830.810, 830.850 or 830.855, or rules adopted to carry out the purposes of those statutes, commits a Class D violation.

(3) A person who violates ORS 830.220, 830.240, 830.245, 830.250, 830.375, 830.475 (4), 830.480, 830.785, 830.805 or 830.825, or rules adopted to carry out the purposes of those statutes, commits a Class C violation.

(4) A person who violates ORS 830.110, 830.175, 830.180, 830.185, 830.195, 830.210, 830.215, 830.225, 830.235, 830.260, 830.300, 830.315 (2) and (3), 830.335, 830.340, 830.345, 830.350, 830.355, 830.360, 830.362, 830.365, 830.370, 830.410, 830.420, 830.495, 830.560, 830.775, 830.795 or 830.830, or rules adopted to carry out the purposes of those statutes, commits a Class B violation.

(5) A person who violates ORS 830.305 or 830.390, or rules adopted to carry out the purposes of those statutes, commits a Class A violation.

(6) A person who violates ORS 830.383 or 830.909 commits a Class B misdemeanor.

(7) A person who violates ORS 830.035 (2), 830.053, 830.315 (1), 830.325, 830.475 (1), 830.730 or 830.955 (1) commits a Class A misdemeanor.

(8) A person who violates ORS 830.475 (2) commits a Class C felony.

NOTE: Clarifies conditions of violation in (1)(a) and (b); deletes excess verbiage in (1)(b).

SECTION 98. Section 8, chapter 624, Oregon Laws 2011, is amended to read:

Sec. 8. (1) For the biennium beginning July 1, 2011, at the request of the Oregon Department of Administrative Services, after the department consults with the City of Hermiston, the State Treasurer is authorized to issue lottery bonds pursuant to ORS 286A.560 to 286A.585 in an amount not to exceed net proceeds of \$6.4 million for the purpose described in subsection (2) of this section, plus an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs.

(2) Net proceeds of lottery bonds issued under this section in an amount sufficient to provide \$6.4 million in net proceeds and interest earnings [*for transfer*] **must be transferred** to the department for disbursement to the City of Hermiston for the purpose of acquiring, developing, constructing and equipping the Eastern Oregon Trade Center.

(3) The Legislative Assembly finds that the use of lottery bond proceeds will create jobs, further economic development, finance public education or restore and protect parks, beaches, watersheds and native fish and wildlife, and is authorized based on the following findings:

(a) The human capital and other resources of eastern Oregon are underutilized;

(b) The Eastern Oregon Trade Center will be a resource to promote and focus attention on the development potential of the region; and

(c) Construction of the Eastern Oregon Trade Center will create jobs.

NOTE: Corrects syntax in (2).

SECTION 99. Section 12, chapter 624, Oregon Laws 2011, is amended to read:

Sec. 12. (1) For the biennium beginning July 1, 2011, at the request of the Oregon Department of Administrative Services, after the department consults with the Lane Transit District, the State Treasurer is authorized to issue lottery bonds pursuant to ORS 286A.560 to 286A.585 in an amount

not to exceed net proceeds of \$4.2 million for the purpose described in subsection (2) of this section, plus an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs.

(2) Net proceeds of lottery bonds issued under this section in an amount sufficient to provide \$4.2 million in net proceeds and interest earnings [*for the department to*] **must be transferred to the department for** deposit in the West Eugene EmX Extension Fund for disbursement to the Lane Transit District for the West Eugene EmX Extension, as defined in section 28, chapter 906, Oregon Laws 2009.

(3) The Legislative Assembly finds that the use of lottery bond proceeds will create jobs, further economic development, finance public education or restore and protect parks, beaches, watersheds and native fish and wildlife, and is authorized based on the findings identified by the Legislative Assembly in section 28, chapter 906, Oregon Laws 2009.

NOTE: Corrects syntax in (2).

SECTION 100. Section 14, chapter 624, Oregon Laws 2011, is amended to read:

Sec. 14. (1) For the biennium beginning July 1, 2011, at the request of the Oregon Department of Administrative Services, after the department consults with the Oregon Historical Society, the State Treasurer is authorized to issue lottery bonds pursuant to ORS 286A.560 to 286A.585 in an amount not to exceed net proceeds of \$2.5 million for the purpose described in subsection (2) of this section, plus an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs.

(2) Net proceeds of lottery bonds issued pursuant to this section in an amount sufficient to provide \$2.5 million in net proceeds and interest earnings **must be transferred** to the department for disbursement to the Oregon Historical Society for payment of costs associated with the mortgage on the society's storage facility in Gresham.

(3) The Legislative Assembly finds that the use of lottery bond proceeds will create jobs, further economic development, finance public education or restore and protect parks, beaches, watersheds and native fish and wildlife, and is authorized based on the following findings:

(a) The mission of the Oregon Historical Society is not just to preserve Oregon's documentary history but to utilize the documents preserved to educate Oregonians of all ages.

(b) By relieving the society of the mortgage costs on the society's storage facility, the society is able to focus more resources on operations that serve the society's mission.

NOTE: Corrects syntax in (2).

SECTION 101. Section 16, chapter 624, Oregon Laws 2011, is amended to read:

Sec. 16. (1) For the biennium beginning July 1, 2011, at the request of the Oregon Department of Administrative Services, after the department consults with the State Board of Forestry, the State Treasurer is authorized to issue lottery bonds pursuant to ORS 286A.560 to 286A.585 in an amount not to exceed net proceeds of \$1,980,000 for the purpose described in subsection (2) of this section, plus an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs.

(2) Notwithstanding ORS 526.060, net proceeds of lottery bonds issued under this section in an amount sufficient to provide \$1,980,000 in net proceeds and interest earnings **must be transferred to the State Board of Forestry** for deposit in the State Forest Acquisition Fund established under [*section 14, chapter 906, Oregon Laws 2009,*] **ORS 530.181** for the purpose of acquiring parcels in the Gilchrist area of Klamath County for use as state forestland.

(3) The Legislative Assembly finds that:

(a) The Gilchrist area of Klamath County is an economically stressed region;

(b) State acquisition of parcels located in the Gilchrist area of Klamath County for management as state forestland would produce economic benefits for the area, including but not limited to income from the harvest of forest products and direct employment and economic benefit from processing harvested forest products;

(c) State acquisition of parcels in the Gilchrist area of Klamath County and management of those parcels as state forestland will result in increased employment in the tourism industry and other industries related to the development of recreational attractions on parcels;

(d) There exists a substantial risk that failure to acquire certain parcels in the Gilchrist area of Klamath County for use as state forestland will result in the parcels being converted to nonforest use, resulting in the loss of existing forest industry jobs and existing jobs in related industries in the area; and

(e) The use of lottery bond proceeds as provided in this section will create jobs, further economic development, finance public education or protect parks, watersheds, fish or wildlife within Oregon, and issuance of lottery bonds for the purpose described in this section is therefore an appropriate use of state lottery funds under section 4, Article XV of the Oregon Constitution, and ORS 461.510.

NOTE: Corrects syntax and substitutes session law reference with proper ORS citation in (2).

SECTION 102. ORS 174.112 is amended to read:

174.112. (1) Subject to ORS 174.108, as used in the statutes of this state “executive department” means all statewide elected officers other than judges, and all boards, commissions, departments, divisions and other entities, without regard to the designation given to those entities, that are within the executive [*department*] **branch** of government as described in [*section 1,*] Article III, **section 1**, of the Oregon Constitution, and that are not:

(a) In the judicial department or the legislative department;

(b) Local governments; or

(c) Special government bodies.

(2) Subject to ORS 174.108, as used in the statutes of this state “executive department” includes:

(a) An entity created by statute for the purpose of giving advice only to the executive department and that does not have members who are officers or employees of the judicial department or legislative department;

(b) An entity created by the executive department for the purpose of giving advice to the executive department, if the document creating the entity indicates that the entity is a public body; and

(c) Any entity created by the executive department other than an entity described in paragraph (b) of this subsection, unless the document creating the entity indicates that the entity is not a governmental entity or the entity is not subject to any substantial control by the executive department.

NOTE: Corrects reference in (1) to executive branch of government to reflect amendment to Article III, section 1, of the Oregon Constitution (see House Joint Resolution 44 (2011)).

SECTION 103. Section 1, chapter 101, Oregon Laws 2012, is amended to read:

Sec. 1. (1) Notwithstanding ORS 291.229, a state agency that employs more than 100 employees and has not, by [*the effective date of this 2012 Act*] **April 11, 2012**, attained a ratio of at least 11 to 1 of employees of the state agency who are not supervisory employees to supervisory employees:

(a) May not fill the position of a supervisory employee until the agency has increased the agency’s ratio of employees to supervisory employees so that the ratio is at least one additional employee to supervisory employees; and

(b) Shall, not later than October 31, 2012, lay off or reclassify the number of supervisory employees necessary to attain the increase in the ratio specified in paragraph (a) of this subsection if the increase in that ratio is not attained under paragraph (a) of this subsection or through attrition.

(2) Notwithstanding ORS 291.229, a state agency that employs more than 100 employees and has complied with the requirements of subsection (1) of this section, but has not attained a ratio of at least 11 to 1 of employees of the state agency who are not supervisory employees to supervisory employees:

(a) May not fill the position of a supervisory employee until the agency has increased the agency’s ratio of employees to supervisory employees by at least one additional employee; and

(b) Not later than October 31 of each subsequent year, shall lay off or reclassify the number of supervisory employees necessary to increase the agency's ratio of employees to supervisory employees so that the ratio is at least one additional employee to supervisory employees.

(3) Layoffs or reclassifications required under this section must be made in accordance with the terms of any applicable collective bargaining agreement. A supervisory employee who is reclassified into a classified position pursuant to this section shall be compensated in the salary range for the classified position unless otherwise provided by an applicable collective bargaining agreement.

(4) Upon application from a state agency, the Oregon Department of Administrative Services may grant a state agency an exception from the requirements of subsections (1) to (3) of this section if the department determines that the exception is warranted due to unique or emergency circumstances. The department shall report all exceptions granted under this subsection to the Joint Committee on Ways and Means, the Joint Interim Committee on Ways and Means or the Emergency Board.

(5) As used in this section:

(a)(A) "State agency" means all state officers, boards, commissions, departments, institutions, branches, agencies, divisions and other entities, without regard to the designation given to those entities, that are within the executive [*department*] **branch** of government as described in [*section 1,*] Article III, **section 1**, of the Oregon Constitution.

(B) "State agency" does not include:

(i) The legislative department as defined in ORS 174.114;
(ii) The judicial department as defined in ORS 174.113;
(iii) The Public Defense Services Commission;
(iv) The Secretary of State and the State Treasurer in the performance of the duties of their constitutional offices;

(v) Semi-independent state agencies listed in ORS 182.454;

(vi) The Oregon Tourism Commission;

(vii) The Oregon Film and Video Office;

(viii) The Oregon University System;

(ix) The Oregon Health and Science University;

(x) The Travel Information Council;

(xi) Oregon Corrections Enterprises;

(xii) The Oregon State Lottery Commission;

(xiii) The State Accident Insurance Fund Corporation;

(xiv) The Oregon Health Insurance Exchange Corporation;

(xv) The Oregon Utility Notification Center;

(xvi) Oregon Community Power;

(xvii) The Citizens' Utility Board;

(xviii) A special government body as defined in ORS 174.117;

(xix) Any other public corporation created under a statute of this state and specifically designated as a public corporation; and

(xx) Any other semi-independent state agency denominated by statute as a semi-independent state agency.

(b) "Supervisory employee" has the meaning given that term in ORS 243.650.

NOTE: Substitutes effective date in (1); corrects reference in (5)(a)(A) to executive branch of government to reflect amendment to Article III, section 1, of the Oregon Constitution (see House Joint Resolution 44 (2011)).

SECTION 104. ORS 291.229, as amended by section 2, chapter 101, Oregon Laws 2012, is amended to read:

291.229. (1) The Oregon Department of Administrative Services shall develop a plan for state agencies that employ more than 100 employees to attain a ratio of 11 to 1 of employees of state agencies who are not supervisory employees to supervisory employees. The plan shall be used to

develop the legislatively adopted budget and may provide for a transition to the ratio specified in this subsection during a period lasting more than one biennium.

(2) As part of the development of the legislatively adopted budget, during each odd-numbered year regular session of the Legislative Assembly, the department shall report on the plan developed under subsection (1) of this section to the Joint Committee on Ways and Means. The report shall include the ratio of employees of state agencies who are not supervisory employees to supervisory employees.

(3) As used in this section:

(a) "Legislatively adopted budget" means the budget enacted by the Legislative Assembly during an odd-numbered year regular session.

(b)(A) "State agency" means all state officers, boards, commissions, departments, institutions, branches, agencies, divisions and other entities, without regard to the designation given to those entities, that are within the executive [*department*] **branch** of government as described in [*section 1,*] Article III, **section 1**, of the Oregon Constitution.

(B) "State agency" does not include:

- (i) The legislative department as defined in ORS 174.114;
- (ii) The judicial department as defined in ORS 174.113;
- (iii) The Public Defense Services Commission;
- (iv) The Secretary of State and the State Treasurer in the performance of the duties of their constitutional offices;
- (v) Semi-independent state agencies listed in ORS 182.454;
- (vi) The Oregon Tourism Commission;
- (vii) The Oregon Film and Video Office;
- (viii) The Oregon University System;
- (ix) The Oregon Health and Science University;
- (x) The Travel Information Council;
- (xi) Oregon Corrections Enterprises;
- (xii) The Oregon State Lottery Commission;
- (xiii) The State Accident Insurance Fund Corporation;
- (xiv) The Oregon Health Insurance Exchange Corporation;
- (xv) The Oregon Utility Notification Center;
- (xvi) Oregon Community Power;
- (xvii) The Citizens' Utility Board;
- (xviii) A special government body as defined in ORS 174.117;
- (xix) Any other public corporation created under a statute of this state and specifically designated as a public corporation; and
- (xx) Any other semi-independent state agency denominated by statute as a semi-independent state agency.

(c) "Supervisory employee" has the meaning given that term in ORS 243.650.

NOTE: Corrects reference in (3)(b)(A) to executive branch of government to reflect amendment to Article III, section 1, of the Oregon Constitution (see House Joint Resolution 44 (2011)).

Passed by House February 11, 2013

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Ramona J. Line, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate February 28, 2013

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2013

Approved:

.....M,....., 2013

.....
John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2013

.....
Kate Brown, Secretary of State