

Enrolled
House Bill 2478

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber, M.D., for Oregon Department of Administrative Services)

CHAPTER

AN ACT

Relating to gender neutral language in laws; creating new provisions; amending ORS 25.280, 59.350, 93.180, 105.920, 106.020, 106.041, 106.150, 106.315, 107.005, 107.025, 107.485, 108.010, 108.020, 108.030, 108.040, 108.045, 108.050, 108.060, 108.080, 108.090, 108.100, 108.110, 108.510, 108.530, 108.550, 110.384, 136.655, 163.565, 164.035, 164.164, 174.100, 215.705, 314.105, 315.465, 315.469, 315.610, 315.675, 316.042, 316.116, 316.122, 316.367, 316.567, 316.690, 316.695, 408.730, 418.210, 419B.040, 432.088, 496.146, 656.005, 656.204, 656.226, 659A.309, 677.365, 726.990, 742.504, 743.027 and 743A.084.

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

SECTION 1. ORS 25.280 is amended to read:

25.280. In any judicial or administrative proceeding for the establishment or modification of a child support obligation under ORS chapter 107, 108, 109, 110 or 416 or ORS 419B.400, 419B.923, 419C.590 or 419C.610, the amount of support determined by the formula established under ORS 25.275 is presumed to be the correct amount of the obligation. This is a rebuttable presumption and a written finding or a specific finding on the record that the application of the formula would be unjust or inappropriate in a particular case is sufficient to rebut the presumption. The following criteria shall be considered in making the finding:

- (1) Evidence of the other available resources of a parent;
- (2) The reasonable necessities of a parent;
- (3) The net income of a parent remaining after withholdings required by law or as a condition of employment;
- (4) A parent's ability to borrow;
- (5) The number and needs of other dependents of a parent;
- (6) The special hardships of a parent including, but not limited to, any medical circumstances of a parent affecting the parent's ability to pay child support;
- (7) The needs of the child;
- (8) The desirability of the custodial parent remaining in the home as a full-time parent and homemaker;
- (9) The tax consequences, if any, to both parents resulting from spousal support awarded and determination of which parent will name the child as a dependent; and
- (10) The financial advantage afforded a parent's household by the income of a spouse or another person with whom the parent lives in a relationship similar to *[husband and wife]* **that of a spouse.**

NOTE: Sections 2 and 3 were deleted by amendment. Subsequent sections were not renumbered.

SECTION 4. ORS 59.350 is amended to read:

59.350. For purposes of ORS 59.005 to 59.451, 59.710 to 59.830, 59.991 and 59.995:

(1) A transaction with [*a husband and wife*] **spouses married to each other** is treated as a transaction with one person. The securities may be held jointly or individually.

(2) A transaction with an entity is treated as a transaction with one person. However, if an entity is formed substantially for the purpose of acquiring the securities that are offered, each security holder shall be counted as a separate person.

SECTION 5. ORS 93.180 is amended to read:

93.180. (1) A conveyance or devise of real property, or an interest in real property, that is made to two or more persons:

(a) Creates a tenancy in common unless the conveyance or devise clearly and expressly declares that the grantees or devisees take the real property with right of survivorship.

(b) Creates a tenancy by the entirety if the conveyance or devise is to [*a husband and wife*] **spouses married to each other** unless the conveyance or devise clearly and expressly declares otherwise.

(c) Creates a joint tenancy as described in ORS 93.190 if the conveyance or devise is to a trustee or personal representative.

(2) A declaration of a right to survivorship creates a tenancy in common in the life estate with cross-contingent remainders in the fee simple.

(3) Except as provided in ORS 93.190, joint tenancy in real property is abolished and the use in a conveyance or devise of the words "joint tenants" or similar words without any other indication of an intent to create a right of survivorship creates a tenancy in common.

SECTION 6. ORS 105.920 is amended to read:

105.920. There shall be a form of co-ownership of personal property known as joint tenancy. A joint tenancy shall have the incidents of survivorship and severability as at common law. A joint tenancy may be created only by a written instrument which expressly declares the interest created to be a joint tenancy. It may be created by a transfer or bequest from a sole owner to others, or to the sole owner and others; or from tenants in common or joint tenants to others, or to themselves or some of them, or to themselves or any of them and others; or from [*husband and wife*] **spouses married to each other**, when holding title as community property or otherwise, to others, or to themselves, or to one of them and to another or others. A transfer or bequest creating a joint tenancy shall not derogate from the rights of creditors.

SECTION 7. ORS 106.020 is amended to read:

106.020. The following marriages are prohibited; and, if solemnized within this state, are absolutely void:

(1) When either party thereto had a [*wife or husband*] **spouse** living at the time of [*such*] **the** marriage.

(2) When the parties thereto are first cousins or any nearer of kin to each other, whether of the whole or half blood, whether by blood or adoption, computing by the rules of the civil law, except that when the parties are first cousins by adoption only, the marriage is not prohibited or void.

SECTION 8. ORS 106.041 is amended to read:

106.041. (1) All persons wishing to enter into a marriage contract shall obtain a marriage license from the county clerk upon application, directed to any person or religious organization or congregation authorized by ORS 106.120 to solemnize marriages, and authorizing the person, organization or congregation to join together as [*husband and wife*] **spouses in a marriage** the persons named in the license.

(2) The State Registrar of the Center for Health Statistics shall provide a standard form of the application, license and record of marriage to be used in this state that must include:

(a) Each applicant's Social Security number recorded on a confidential portion of the application, license and record of marriage;

(b) Certain statistical data regarding age, place of birth, sex, occupation, residence and previous marital status of each applicant;

- (c) The name and address of the affiant under ORS 106.050, if required; and
- (d) Each applicant's name after marriage as provided in ORS 106.220.
- (3) Each applicant for a marriage license shall file with the county clerk from whom the marriage license is sought a written application for the license on forms prescribed for this purpose by the Center for Health Statistics.
- (4) A marriage license must contain the following statement: "Neither you nor your spouse is the property of the other. The laws of the State of Oregon affirm your right to enter into marriage and at the same time to live within the marriage free from violence and abuse."
- (5) An applicant may not intentionally make a material false statement in the records required by this section.
- (6) The county clerk may not issue a marriage license until the provisions of this section and ORS 106.050 and 106.060 are complied with.

SECTION 9. ORS 106.150 is amended to read:

106.150. (1) In the solemnization of a marriage no particular form is required except that the parties thereto shall assent or declare in the presence of the clergyperson, county clerk or judicial officer solemnizing the marriage and in the presence of at least two witnesses, that they take each other to be [*husband and wife*] **spouses in a marriage**.

(2) All marriages, to which there are no legal impediments, solemnized before or in any religious organization or congregation according to the established ritual or form commonly practiced therein, are valid. In such case, the person presiding or officiating in the religious organization or congregation shall deliver to the county clerk who issued the marriage license the application, license and record of marriage in accordance with ORS 106.170.

SECTION 10. ORS 106.315 is amended to read:

106.315. (1) A domestic partnership is prohibited and void when:

(a) Either party to the domestic partnership had a partner[, *wife or husband*] **or spouse** living at the time of the domestic partnership unless the partner[, *wife or husband*] **or spouse** was the other party to the domestic partnership.

(b) The parties to the domestic partnership are first cousins or any nearer of kin to each other, whether of the whole or half blood, whether by blood or adoption, computing by the rules of the civil law. However, when the parties are first cousins by adoption only, the domestic partnership is not prohibited or void.

(2) When either party to a domestic partnership is incapable of making the civil contract or consenting to the contract for want of legal age or sufficient understanding, or when the consent of either party is obtained by force or fraud, the domestic partnership is void from the time it is so declared by a judgment of a court having jurisdiction of the domestic partnership.

SECTION 11. ORS 107.005 is amended to read:

107.005. (1) A marriage may be declared void from the beginning for any of the causes specified in ORS 106.020; and, whether so declared or not, shall be deemed and held to be void in any action, suit or proceeding in which [*it*] **the marriage** may come into question.

(2) When either [*husband or wife*] **spouse** claims or pretends that the marriage is void or voidable under the provisions of ORS 106.020, [*it*] **the marriage** may at the suit of the other be declared valid or that [*it*] **the marriage** was void from the beginning or that [*it*] **the marriage** is void from the time of the judgment.

(3) A marriage once declared valid by the judgment of a court having jurisdiction thereof, in a suit for that purpose, cannot afterward be questioned for the same cause directly or otherwise.

SECTION 12. ORS 107.025 is amended to read:

107.025. (1) A judgment for the dissolution of a marriage or a permanent or unlimited separation may be rendered when irreconcilable differences between the parties have caused the irremediable breakdown of the marriage.

(2) A judgment for separation may be rendered when:

(a) Irreconcilable differences between the parties have caused a temporary or unlimited breakdown of the marriage;

(b) The parties make and file with the court an agreement suspending for a period not less than one year their obligation to live together as [*husband and wife*] **spouses**, and the court finds such agreement to be just and equitable; or

(c) Irreconcilable differences exist between the parties and the continuation of their status as married persons preserves or protects legal, financial, social or religious interest.

SECTION 13. ORS 107.485 is amended to read:

107.485. A marriage may be dissolved by the summary dissolution procedure specified in this section and ORS 107.490 when all of the following conditions exist at the time the proceeding is commenced:

(1) The jurisdictional requirements of ORS 107.025 and 107.075 are met.

(2)(a) There are no minor children born to the parties or adopted by the parties during the marriage;

(b) There are no children over age 18 attending school, as described in ORS 107.108, either born to the parties or adopted by the parties during the marriage;

(c) There are no minor children born to or adopted by the parties prior to the marriage; and

(d) [*The wife is not*] **Neither spouse is** now pregnant.

(3) The marriage is not more than 10 years in duration.

(4) Neither party has any interest in real property wherever situated.

(5) There are no unpaid obligations in excess of \$15,000 incurred by either or both of the parties from the date of the marriage.

(6) The total aggregate fair market value of personal property assets in which either of the parties has any interest, excluding all encumbrances, is less than \$30,000.

(7) The petitioner waives any right to spousal support.

(8) The petitioner waives any rights to pendente lite orders except those pursuant to ORS 107.700 to 107.735 or 124.005 to 124.040.

(9) The petitioner knows of no other pending domestic relations suits involving the marriage in this or any other state.

SECTION 14. ORS 108.010 is amended to read:

108.010. (1) All laws [*which*] **that** impose or recognize civil disabilities upon a [*wife which*] **spouse in a marriage that** are not imposed **upon** or recognized as existing [*as*] **with respect** to the [*husband*] **other spouse are** hereby [*are*] repealed[; *and*].

(2) All civil rights belonging to [*the husband*] **a spouse in a marriage** not conferred upon the [*wife*] **other spouse** prior to June 14, 1941, or [*which she*] **that the other spouse** does not have at common law, **are** hereby [*are*] conferred upon [*her*] **the other spouse**, including, [*among other things*] **but not limited to**, the right of action for loss of consortium of [*her husband*] **the spouse**.

SECTION 15. ORS 108.020 is amended to read:

108.020. Neither [*husband nor wife*] **spouse in a marriage** is liable for the debts or liabilities of the other **spouse** incurred before marriage[; *and*]. Except as [*otherwise*] provided in ORS 108.040, [*they are*] **a spouse in a marriage is** not liable for the separate debts of [*each other, nor is*] **the other spouse, and** the rent or income of property owned by either [*husband or wife*] **spouse is not** liable for the separate debts of the other **spouse**.

SECTION 16. ORS 108.030 is amended to read:

108.030. For all civil injuries committed by a [*married woman*] **spouse in a marriage**, damages may be recovered from [*her alone*] **that spouse only**, and [*her husband shall not be*] **the other spouse is not** responsible [*therefor*] **for such civil injuries**, except [*in case*] where [*he*] **the spouses** would be jointly responsible with [*her*] **each other** if the marriage did not exist.

SECTION 17. ORS 108.040 is amended to read:

108.040. (1)(a) The expenses of the family and the education of the minor children are chargeable upon the property of both [*husband and wife*] **spouses in a marriage who are parents of the minor children**, or either of them, and in relation thereto they may be sued jointly or separately.

(b) As used in this subsection:

(A) “Expenses of the family” includes only expenses incurred for the benefit of a member of the family.

(B) “Family” means the [*husband, wife*] **spouses in a marriage** and **the** minor children of the [*husband and wife*] **spouses**.

(2) Notwithstanding subsection (1) of this section, after the separation of one spouse from the other spouse, a spouse is not responsible for debts contracted by the other spouse after the separation except for debts incurred for maintenance, support and education of the minor children of the spouses.

(3) For the purposes of subsection (2) of this section, spouses shall be considered separated if [*they*] **the spouses** are living in separate residences without intention of reconciliation at the time the debt is incurred. The court may consider the following factors in determining whether the spouses are separated in addition to such other factors as may be relevant:

(a) Whether the spouses subsequently reconciled.

(b) The number of separations and reconciliations of the spouses.

(c) The length of time the spouses lived apart.

(d) Whether the spouses intend to reconcile.

(e) Whether the spouses have filed a petition for separation or dissolution.

(4) An action under this section shall be commenced within the period otherwise provided by law.

SECTION 18. ORS 108.045 is amended to read:

108.045. (1) The expenses of the family and the education of **the** minor children, including stepchildren, are chargeable upon the property of both [*husband and wife*] **spouses in a marriage who are parents or stepparents of the minor children**, or either of them. However, with regard to stepchildren, the obligation shall cease upon entry of a judgment of dissolution.

(2) As used in this section, “stepchild” means a child under the age of 18, or a child attending school as defined in ORS 107.108 who is in the custody of one biological or adoptive parent who is married to and not legally separated from a person other than the second biological or adoptive parent of such child.

(3) Notwithstanding subsection (1) of this section, the legal duty of a parent to provide support for a child, as otherwise required by law, shall not be affected.

SECTION 19. ORS 108.050 is amended to read:

108.050. The property and pecuniary rights of every [*married woman*] **spouse in a marriage acquired** at the time of [*her*] **the marriage** or afterwards [*acquired*], including real or personal property acquired by [*her*] **the spouse’s** own labor during [*coverture*] **the marriage**, shall not be subject to the debts or contracts of [*her husband*] **the other spouse**.

SECTION 20. ORS 108.060 is amended to read:

108.060. When property is owned by either [*husband or wife*] **spouse in a marriage**, the other **spouse** has no interest [*therein which*] **in that property that** can be the subject of contract between [*them*] **the spouses**, or [*such interest as will*] **that can** make the [*same*] **spouses** liable for the contracts or liabilities of [*either the husband or wife*] **the other spouse** who is not the owner of the property, except as provided in ORS 108.040.

SECTION 21. ORS 108.080 is amended to read:

108.080. Should either [*the husband or wife*] **spouse in a marriage** obtain possession or control of property belonging to the other **spouse** either before or after marriage, the owner of the property may maintain an action [*therefor*] **for possession and control of the property**, or for any right growing out of the [*same*] **ownership of the property**, in the same manner and to the same extent as if [*they*] **the spouses** were unmarried.

SECTION 22. ORS 108.090 is amended to read:

108.090. (1) A conveyance, transfer or lien executed by either [*husband or wife*] **spouse in a marriage** to or in favor of the other **spouse** is valid to the same extent as between other persons.

(2) When a [*husband or wife*] **spouse** conveys to the other **spouse** an undivided one-half of any real property and retains a like undivided half, and in such conveyance there are used words indi-

cating an intention to create an estate in entirety, [*said husband and wife*] **the spouses** hold the real property described in the conveyance by the entirety.

(3) A conveyance from [*husband or wife*] **a spouse** to the other **spouse** of [*his or her*] **the spouse's** interest in an estate held by [*them*] **the spouses** by entirety is valid and dissolves the estate by entirety. All deeds heretofore executed by [*husband or wife*] **either spouse** to the other **spouse** for the purpose of dissolving the estate by entirety are valid.

SECTION 23. ORS 108.100 is amended to read:

108.100. [*One spouse may constitute*] **A spouse in a marriage may designate** the other [*his or her*] **spouse to be the spouse's** attorney in fact to control, sell and convey, mortgage, or bar dower or curtesy for [*their*] **the spouses'** mutual benefit, and may revoke the [*same*] **designation** to the same extent and in the same manner as other persons.

SECTION 24. ORS 108.110 is amended to read:

108.110. (1) Any married person may apply to the circuit court of the county in which the married person resides or in which the spouse may be found for an order upon the spouse to provide for support of the married person or for the support of minor children and children attending school, or both, and, if the married person initiating the action for support is a woman who is pregnant, her unborn child, or both, if her spouse is the natural father of such children, children attending school or unborn child or if her spouse is the adoptive [*father*] **parent** of such children or children attending school. The married person initiating the action for support may apply for the order by filing in such county a petition setting forth the facts and circumstances upon which the married person relies for such order. If satisfied that a just cause exists, the court shall direct that the married person's spouse appear at a time set by the court to show cause why an order of support should not be entered in the matter. The provisions of ORS 107.108 apply to an order entered under this section for the support of a child attending school.

(2) As used in this section, "child attending school" has the meaning given that term in ORS 107.108.

(3) The petitioner shall state in the petition, to the extent known:

(a) Whether there is pending in this state or any other jurisdiction any type of support proceeding involving children of the marriage, including a proceeding brought under ORS 107.085, 109.100, 125.025, 416.400 to 416.465, 419B.400 or 419C.590 or ORS chapter 110; and

(b) Whether there exists in this state or any other jurisdiction a support order, as defined in ORS 110.303, involving children of the marriage.

(4) The petitioner shall include with the petition a certificate regarding any pending support proceeding and any existing support order. The petitioner shall use a certificate that is in a form established by court rule and include information required by court rule and subsection (3) of this section.

(5) The provisions of this section apply equally [*to cases where it is the husband*] **regardless of which spouse is** making application for a support order.

(6) In any proceeding under this section, the obligee, as that person is defined in ORS 110.303, is a party to the proceeding.

SECTION 25. ORS 108.510 is amended to read:

108.510. (1) Notwithstanding any repeal of chapter 440, Oregon Laws 1943, known as the Oregon Community Property Law of 1943, [*any husband and wife*] **spouses in a marriage** who elected to come under the terms [*thereof*] **of that law** may revoke [*such*] **the** election upon filing in the office of the Secretary of State a notice of [*their*] **the spouses'** desire to revoke [*such*] **the** election in the following form:

REVOCATION OF ELECTION
TO COME UNDER THE
OREGON COMMUNITY
PROPERTY LAW, CHAPTER 440,

name in such manner [*that, by law, but for the provisions of said statutes, he or she would be entitled so to deal therewith*] **as the spouse is entitled to by law.**

SECTION 28. ORS 110.384 is amended to read:

110.384. (1) The physical presence of the petitioner in a responding tribunal of this state is not required for the establishment, enforcement or modification of a support order or the rendition of a judgment determining parentage.

(2) A verified petition, affidavit, document substantially complying with federally mandated forms and a document incorporated by reference in any of them, not excluded under the hearsay rule if given in person, are admissible in evidence if given under oath by a party or witness residing in another state.

(3) A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it, and is admissible to show whether payments were made.

(4) Copies of bills for testing for parentage and for prenatal and postnatal health care of the mother and child furnished to the adverse party at least 20 days before trial are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary and customary.

(5) Documentary evidence transmitted from another state to a tribunal of this state by telephone, telecopier or other means that does not provide an original writing may not be excluded from evidence on an objection based on the means of transmission.

(6) In a proceeding under this chapter, a tribunal of this state may permit a party or witness residing in another state to be deposed or to testify by telephone, audiovisual means or other electronic means at a designated tribunal or other location in that state. A tribunal of this state shall cooperate with tribunals of other states in designating an appropriate location for the deposition or testimony.

(7) A privilege against disclosure of communications between spouses does not apply in a proceeding under this chapter.

(8) The defense of immunity based on the relationship of [*husband and wife*] **spouses in a marriage** or of parent and child does not apply in a proceeding under this chapter.

SECTION 28a. If Senate Bill 604 becomes law, section 28 of this 2015 Act (amending ORS 110.384) is repealed.

SECTION 29. ORS 136.655 is amended to read:

136.655. (1) Except as provided in subsection (2) of this section, in all criminal actions in which [*the husband*] **a spouse in a marriage** is the party accused, the [*wife*] **other spouse** is a competent witness, **but neither spouse** [*and when the wife is the party accused, the husband is a competent witness; but neither husband nor wife in such cases*] shall be compelled or allowed to testify [*in such cases*] **in a criminal action**, except as provided in ORS 40.255.

(2) There is no privilege under this section, or under ORS 40.255 in all criminal actions in which [*one*] **a spouse** is charged with bigamy or with an offense or attempted offense against the person or property of the other spouse or of a child of either, or with an offense against the person or property of a third person committed in the course of committing or attempting to commit an offense against the other spouse.

SECTION 30. ORS 163.565 is amended to read:

163.565. (1) Proof that a child was born to a woman during the time a man lived and cohabited with her, or held her out as his [*wife*] **spouse in a marriage**, is prima facie evidence that he is the father of the child. This subsection does not exclude any other legal evidence tending to establish the parental relationship.

(2) No provision of law prohibiting the disclosure of confidential communications between [*husband and wife*] **spouses in a marriage** apply to prosecutions for criminal nonsupport. A [*husband or wife*] **spouse** is a competent and compellable witness for or against either party.

SECTION 31. ORS 164.035 is amended to read:

164.035. (1) In a prosecution for theft it is a defense that the defendant acted under an honest claim of right, in that:

(a) The defendant was unaware that the property was that of another; or

(b) The defendant reasonably believed that the defendant was entitled to the property involved or had a right to acquire or dispose of it as the defendant did.

(2) In a prosecution for theft by extortion committed by instilling in the victim a fear that the victim or another person would be charged with a crime, it is a defense that the defendant reasonably believed the threatened charge to be true and that the sole purpose of the defendant was to compel or induce the victim to take reasonable action to make good the wrong which was the subject of the threatened charge.

(3) In a prosecution for theft by receiving, it is a defense that the defendant received, retained, concealed or disposed of the property with the intent of restoring it to the owner.

(4) It is a defense that the property involved was that of the defendant's spouse, unless the parties were not living together as [*husband and wife*] **spouses in a marriage** and were living in separate abodes at the time of the alleged theft.

SECTION 32. ORS 164.164 is amended to read:

164.164. (1) In a prosecution under ORS 164.162, it is a defense that the defendant acted under an honest claim of right in that:

(a) The defendant was unaware that the property was that of another person;

(b) The defendant reasonably believed that the defendant was entitled to the property involved or had a right to acquire or dispose of it as the defendant did; or

(c) The property involved was that of the defendant's spouse, unless the parties were not living together as [*husband and wife*] **spouses in a marriage** and were living in separate abodes at the time of the alleged offense.

(2)(a) ORS 164.162 does not apply to employees charged with the operation of facilities listed in paragraph (b) of this subsection when the employees are carrying out their official duties to protect the safety and security of the facilities.

(b) The facilities to which paragraph (a) of this subsection applies are juvenile detention facilities and local correctional facilities as defined in ORS 169.005, detention facilities as defined in ORS 419A.004, youth correction facilities as defined in ORS 420.005 and Department of Corrections institutions as defined in ORS 421.005.

SECTION 33. ORS 174.100 is amended to read:

174.100. As used in the statute laws of this state, unless the context or a specially applicable definition requires otherwise:

(1) "Any other state" includes any state and the District of Columbia.

(2) "City" includes any incorporated village or town.

(3) "County court" includes board of county commissioners.

(4) "**Husband and wife,**" "**husband or wife,**" "**husband**" or "**wife**" means **spouses or a spouse in a marriage.**

[(4)] (5) "May not" and "shall not" are equivalent expressions of an absolute prohibition.

[(5)] (6) "Person" includes individuals, corporations, associations, firms, partnerships, limited liability companies and joint stock companies.

[(6)] (7) "Sexual orientation" means an individual's actual or perceived heterosexuality, homosexuality, bisexuality or gender identity, regardless of whether the individual's gender identity, appearance, expression or behavior differs from that traditionally associated with the individual's sex at birth.

[(7)] (8) "State Treasury" includes those financial assets the lawful custody of which are vested in the State Treasurer and the office of the State Treasurer relating to the custody of those financial assets.

[(8)] (9) "To" means "to and including" when used in a reference to a series of statute sections, subsections or paragraphs.

[(9)] (10) "United States" includes territories, outlying possessions and the District of Columbia.

[(10)] (11) "Violate" includes failure to comply.

SECTION 34. ORS 215.705 is amended to read:

215.705. (1) A governing body of a county or its designate may allow the establishment of a single-family dwelling on a lot or parcel located within a farm or forest zone as set forth in this section and ORS 215.710, 215.720, 215.740 and 215.750 after notifying the county assessor that the governing body intends to allow the dwelling. A dwelling under this section may be allowed if:

(a) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:

(A) Prior to January 1, 1985; or

(B) By devise or by intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.

(b) The tract on which the dwelling will be sited does not include a dwelling.

(c) The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged comprehensive plan and land use regulations and other provisions of law.

(d) The lot or parcel on which the dwelling will be sited, if zoned for farm use, is not on that high-value farmland described in ORS 215.710 except as provided in subsections (2) and (3) of this section.

(e) The lot or parcel on which the dwelling will be sited, if zoned for forest use, is described in ORS 215.720, 215.740 or 215.750.

(f) When the lot or parcel on which the dwelling will be sited lies within an area designated in an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling is consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based.

(g) When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed.

(2)(a) Notwithstanding the requirements of subsection (1)(d) of this section, a single-family dwelling not in conjunction with farm use may be sited on high-value farmland if:

(A) It meets the other requirements of ORS 215.705 to 215.750;

(B) The lot or parcel is protected as high-value farmland as described under ORS 215.710 (1); and

(C) A hearings officer of a county determines that:

(i) The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity.

(ii) The dwelling will comply with the provisions of ORS 215.296 (1).

(iii) The dwelling will not materially alter the stability of the overall land use pattern in the area.

(b) A local government shall provide notice of all applications for dwellings allowed under this subsection to the State Department of Agriculture. Notice shall be provided in accordance with the governing body's land use regulations but shall be mailed at least 20 calendar days prior to the public hearing before the hearings officer under paragraph (a) of this subsection.

(3) Notwithstanding the requirements of subsection (1)(d) of this section, a single-family dwelling not in conjunction with farm use may be sited on high-value farmland if:

(a) It meets the other requirements of ORS 215.705 to 215.750.

(b) The tract on which the dwelling will be sited is:

(A) Identified in ORS 215.710 (3) or (4);

(B) Not protected under ORS 215.710 (1); and

(C) Twenty-one acres or less in size.

(c)(A) The tract is bordered on at least 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on them on January 1, 1993;

(B) The tract is not a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-

quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within the urban growth boundary, but only if the subject tract abuts an urban growth boundary; or

(C) The tract is a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract and on the same side of the public road that provides access to the subject tract. The governing body of a county must interpret the center of the subject tract as the geographic center of the flaglot if the applicant makes a written request for that interpretation and that interpretation does not cause the center to be located outside the flaglot. Up to two of the four dwellings may lie within the urban growth boundary, but only if the subject tract abuts an urban growth boundary. As used in this subparagraph:

(i) "Flaglot" means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract.

(ii) "Geographic center of the flaglot" means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flaglot, at a 90-degree angle to that side, and the second line crosses the midpoint of the longest adjacent side of the flaglot.

(4) If land is in a zone that allows both farm and forest uses, is acknowledged to be in compliance with goals relating to both agriculture and forestry and may qualify as an exclusive farm use zone under this chapter, the county may apply the standards for siting a dwelling under either subsection (1)(d) of this section or ORS 215.720, 215.740 and 215.750 as appropriate for the predominant use of the tract on January 1, 1993.

(5) A county may, by application of criteria adopted by ordinance, deny approval of a dwelling allowed under this section in any area where the county determines that approval of the dwelling would:

(a) Exceed the facilities and service capabilities of the area;

(b) Materially alter the stability of the overall land use pattern in the area; or

(c) Create conditions or circumstances that the county determines would be contrary to the purposes or intent of its acknowledged comprehensive plan or land use regulations.

(6) For purposes of subsection (1)(a) of this section, "owner" includes the [*wife, husband*] **spouses in a marriage**, son, daughter, [*mother, father,*] **parent**, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, [*mother-in-law, father-in-law,*] **parent-in-law**, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.

(7) When a local government approves an application for a single-family dwelling under the provisions of this section, the application may be transferred by a person who has qualified under this section to any other person after the effective date of the land use decision.

SECTION 35. ORS 314.105 is amended to read:

314.105. For purposes of ORS 314.105 to 314.135:

(1) "Determination" means:

(a) A decision by the Oregon Tax Court that has become final;

(b) A closing agreement made under ORS 305.150;

(c) A final disposition by the Department of Revenue of a claim for refund. For purposes of this paragraph, a claim for refund shall be deemed finally disposed of by the department as to items with respect to which the claim was allowed, on the date of allowance of refund or credit or on the date of mailing notice of disallowance (by reason of offsetting items) of the claim for refund, and as to items with respect to which the claim was disallowed, in whole or in part, or as to items applied by the department in reduction of the refund or credit, on expiration of the time for instituting suit with respect thereto (unless suit is instituted before the expiration of such time); or

(d) Under regulations prescribed by the department, an agreement for purposes of ORS 314.105 to 314.135 signed by the department and by any person, relating to the liability of such person (or the person for whom the person acts) in respect of a tax for any taxable period.

(2) "Related taxpayer" means a taxpayer who, with the taxpayer with respect to whom a determination is made, stood, in the taxable year with respect to which the erroneous inclusion, exclusion, omission, allowance, or disallowance was made, in one of the following relationships:

- (a) [*Husband and wife*] **Spouses in a marriage**;
- (b) Grantor and fiduciary;
- (c) Grantor and beneficiary;
- (d) Fiduciary and beneficiary, legatee, or heir;
- (e) Decedent and decedent's estate;
- (f) Partner;
- (g) Member of an affiliated group of corporations as defined in section 1504 of the Internal Revenue Code; or
- (h) Shareholder of an S corporation, as defined in section 1361 of the Internal Revenue Code.

(3) "Taxpayer" means any person or entity subject to tax under an applicable revenue law.

SECTION 36. ORS 315.465 is amended to read:

315.465. (1) As used in this section and ORS 315.469:

- (a) "Alternative fuel vehicle" means a motor vehicle that can operate on a fuel blend.
- (b) "Biodiesel" has the meaning given that term in ORS 646.905.
- (c) "Biomass" has the meaning given that term in ORS 315.141.
- (d) "Bone dry ton" means matter that is dried to less than one percent moisture content and that weighs 2,000 pounds.
- (e) "Fuel blend" means diesel fuel of blends equal to or exceeding 99 percent biodiesel or gasoline of a blend equal to or exceeding 85 percent methanol or ethanol.

(2)(a) A resident individual shall be allowed a credit against the taxes otherwise due under ORS chapter 316 for costs paid or incurred to purchase fuel blends for use in an alternative fuel vehicle.

(b) A resident individual shall be allowed a credit against the taxes otherwise due under ORS chapter 316 for costs paid or incurred to purchase forest, rangeland or agriculture waste or residue densified and dried prepared solid biofuel that contains 100 percent biomass.

(3) The amount of the credit shall be calculated as follows:

- (a) Determine the quantity of fuel blend or solid biofuel purchased by the taxpayer during the tax year;
- (b) Categorize the fuel blend or solid biofuel as prescribed in rules adopted under ORS 469B.400; and
- (c) Multiply the quantity of fuel blend or solid biofuel in a particular category by the appropriate credit rate for that category, expressed in dollars and cents.

(4) Notwithstanding subsection (3) of this section:

(a) The credit allowed under this section for diesel blended fuel is equal to \$0.50 per gallon and in any one tax year may not exceed \$200 per Oregon registered motor vehicle that is owned or leased by the taxpayer under a lease of greater than 30 days' duration and that is capable of using a fuel blend.

(b) The credit allowed for gasoline blended fuel is equal to \$0.50 per gallon and in any one tax year may not exceed \$200 per Oregon registered motor vehicle that is owned or leased by the taxpayer under a lease of greater than 30 days' duration and that is capable of using a fuel blend.

(c) The credit allowed for forest, rangeland or agriculture waste or residue densified and dried prepared solid biofuel is equal to \$10 per bone dry ton of solid biofuel and in any one tax year may not exceed \$200 per taxpayer.

(d) The credit allowed in any one tax year may not exceed the tax liability of the taxpayer and may not be carried forward to a subsequent tax year.

(5) For each tax year for which a credit is claimed under this section, the taxpayer shall maintain records sufficient to determine the taxpayer's purchase of qualifying fuel blends. A taxpayer shall maintain the records required under this subsection for at least five years.

(6) A nonresident shall be allowed the credit under this section in the proportion provided in ORS 316.117.

(7) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit allowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

(8) If a change in the status of a taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with ORS 316.117.

(9) [A *husband and wife*] **Spouses in a marriage** who file separate returns for a taxable year may each claim a share of the tax credit that would have been allowed on a joint return in proportion to the contribution of each.

SECTION 37. ORS 315.469 is amended to read:

315.469. (1) A resident individual shall be allowed a tax credit against the taxes otherwise due under ORS chapter 316 for costs paid or incurred to purchase fuel for primary home space heating that is at least 20 percent biodiesel. The credit allowed under this section is the lesser of five cents per gallon or \$200.

(2) The credit allowed in any one tax year may not exceed the tax liability of the taxpayer and may not be carried forward to a subsequent tax year.

(3) For each tax year for which a credit is claimed under this section, the taxpayer shall maintain records sufficient to determine the taxpayer's purchase of qualifying fuel for primary home space heating. A taxpayer shall maintain the records required under this subsection for at least five years.

(4) A nonresident shall be allowed the credit under this section in the proportion provided in ORS 316.117.

(5) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit allowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

(6) If a change in the status of a taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with ORS 316.117.

(7) [A *husband and wife*] **Spouses in a marriage** who file separate returns for a taxable year may each claim a share of the tax credit that would have been allowed on a joint return in proportion to the contribution of each.

SECTION 38. ORS 315.610 is amended to read:

315.610. (1) A taxpayer shall be allowed a credit against the taxes otherwise due under ORS chapter 316 (or, if the taxpayer is a corporation, under ORS chapter 317 or 318) for premium costs actually paid or incurred during the tax year for a long term care insurance policy:

- (a) For long term care coverage of the taxpayer or a dependent or parent of the taxpayer; or
- (b) That is offered by the taxpayer to employees of the taxpayer that are employed in this state.

(2) The amount of the credit allowed under this section shall equal the lesser of:

(a) Fifteen percent of the total amount of long term care insurance premiums paid or incurred by the taxpayer during the tax year; or

(b)(A) If the long term care insurance coverage is for the taxpayer and the dependents or parents of the taxpayer, \$500; or

(B) If the long term care insurance coverage is for Oregon-based employees of the taxpayer and their dependents or parents, \$500 multiplied by the number of employees covered.

(3) A credit may not be allowed under this section if the policy was first issued prior to January 1, 2000.

(4) The credit allowed under this section may not exceed the tax liability of the taxpayer and may not be carried forward to another tax year.

(5) In the case of a credit allowed under this section for purposes of ORS chapter 316:

(a) A nonresident shall be allowed the credit under this section in the proportion provided in ORS 316.117.

(b) If a change in the status of a taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with ORS 316.117.

(c) [A *husband and wife*] **Spouses in a marriage** who file separate returns for a taxable year may each claim a share of the tax credit that would have been allowed on a joint return in proportion to the contribution of each.

(d) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit allowed under this section shall be prorated or computed in a manner consistent with ORS 314.085.

(6) As used in this section, "long term care insurance" has the meaning given that term in ORS 743.652.

SECTION 39. ORS 315.675 is amended to read:

315.675. (1) As used in this section, "cultural organization" means an entity that is:

(a) Exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code; and

(b) Organized primarily for the purpose of producing, promoting or presenting the arts, heritage, programs and humanities to the public or organized primarily for identifying, documenting, interpreting and preserving cultural resources.

(2) A taxpayer shall be allowed a credit against the taxes otherwise due under ORS chapter 316 for amounts contributed during the tax year to the Trust for Cultural Development Account established under ORS 359.405.

(3) A taxpayer that is a corporation shall be allowed a credit against the taxes otherwise due under ORS chapter 317 or 318 for amounts contributed during the tax year to the Trust for Cultural Development Account established under ORS 359.405.

(4) The credit is allowable under this section only to the extent the taxpayer has contributed an equal amount to an Oregon cultural organization during the tax year.

(5) The amount of the credit shall equal 100 percent of the amount contributed to the Trust for Cultural Development Account, but may not exceed the lesser of the tax liability of the:

(a) Taxpayer under ORS chapter 316 for the tax year or \$500.

(b) Taxpayer that is a corporation under ORS chapter 317 or 318 for the tax year or \$2,500.

(6) The credit allowed under this section may not be carried over to another tax year.

(7) The credit allowed under this section is in addition to any charitable contribution deduction allowable to the taxpayer.

(8) In the case of a credit allowed under this section for purposes of ORS chapter 316:

(a) A nonresident shall be allowed the credit under this section in the proportion provided in ORS 316.117.

(b) If a change in the status of a taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed under this section shall be determined in a manner consistent with ORS 316.117.

(c) [A *husband and wife*] **Spouses in a marriage** who file separate returns for a taxable year may each claim a share of the tax credit that would have been allowed on a joint return in proportion to the contribution of each.

(d) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit allowed under this section shall be prorated or computed in a manner consistent with ORS 314.085.

SECTION 40. ORS 316.042 is amended to read:

316.042. In the case of a joint return of [*husband and wife*] **spouses in a marriage**, pursuant to ORS 316.122 or pursuant to ORS 316.367, the tax imposed by ORS 316.037 shall be twice the tax which would be imposed if the taxable income were cut in half. For purposes of this section, a return of a head of household or a surviving spouse, as defined in subsections (a) and (b) of section 2 of the Internal Revenue Code, shall be treated as a joint return of [*husband and wife*] **spouses in a marriage**.

SECTION 41. ORS 316.116 is amended to read:

316.116. (1)(a) A resident individual shall be allowed a credit against the taxes otherwise due under this chapter for costs paid or incurred for construction or installation of each of one or more alternative energy devices in a dwelling.

(b) A resident individual shall be allowed a credit against the taxes otherwise due under this chapter for costs paid or incurred to modify or purchase an alternative fuel vehicle or related equipment.

(c) A credit against the taxes otherwise due under this chapter is not allowed for an alternative energy device that does not meet or exceed all applicable federal, state and local requirements for energy efficiency, including equipment codes, the state building code, specialty codes and any other standards.

(2)(a) In the case of a category one alternative energy device that is not an alternative fuel device, the credit shall be based upon the first year energy yield of the alternative energy device that qualifies under ORS 469B.100 to 469B.118. The amount of the credit shall be the same whether for collective or noncollective investment.

(b) The credit allowed under this section for each category one alternative energy device for each dwelling may not exceed the lesser of \$1,500 or the first year energy yield in kilowatt hours per year multiplied by 60 cents per dwelling utilizing the alternative energy device used for space heating, cooling, electrical energy or domestic water heating for tax years beginning on or after January 1, 1998.

(c) For each category one alternative energy device used for swimming pool, spa or hot tub heating, the credit allowed under this section shall be based upon 50 percent of the cost of the device or the first year's energy yield in kilowatt hours per year multiplied by 15 cents, whichever is lower, up to \$1,500 for tax years beginning on or after January 1, 1998.

(d) For each alternative fuel device, the credit allowed under this section is 25 percent of the cost of the alternative fuel device but the total credit shall not exceed \$750 if the device is placed in service on or after January 1, 1998.

(e)(A) For each category two alternative energy device that is a solar electric system or fuel cell system, the credit allowed under this section may not exceed the lesser of \$3 per watt of installed output or \$6,000. The State Department of Energy may by rule provide for a lesser amount of incentive as market conditions warrant, taking into consideration factors including the availability of bulk purchasing of alternative energy devices.

(B) For each category two alternative energy device that is a wind electric system, the credit allowed under this section may not exceed the lesser of \$6,000 or the first year energy yield in kilowatt hours per year multiplied by \$2.

(C) Notwithstanding subparagraph (A) or (B) of this paragraph, the total amount of the credits allowed in any one tax year may not exceed the tax liability of the taxpayer or \$1,500 for each alternative energy device, whichever is less. Unused credit amounts may be carried forward as provided in subsection (6) of this section, but may not be carried forward to a tax year that is more than five tax years following the first tax year for which any credit was allowed with respect to the category two alternative energy device that is the basis for the credit.

(D) Notwithstanding subparagraph (A) or (B) of this paragraph, the total amount of the credit for each device allowed under this paragraph may not exceed 50 percent of the total installed cost of the category two alternative energy device.

(3) To qualify for a credit under this section, all of the following are required:

(a) The alternative energy device must be purchased, constructed, installed and operated in accordance with ORS 469B.100 to 469B.118 and a certificate issued thereunder.

(b) The taxpayer who is allowed the credit must be the owner or contract purchaser of the dwelling or dwellings served by the alternative energy device or the tenant of the owner or of the contract purchaser and must:

(A) Use the dwelling or dwellings served by the alternative energy device as a principal or secondary residence; or

(B) Rent or lease, under a residential rental agreement, the dwelling or dwellings to a tenant who uses the dwelling or dwellings as a principal or secondary residence.

(c) In the case of an alternative fuel device, unless the verification form and certificate are transferred as authorized under ORS 469B.106 (9), the taxpayer who is allowed the credit must be the contractor who constructs the dwelling that incorporates the alternative fuel device into the dwelling or installs the fueling station in the dwelling.

(d) The credit must be claimed for the tax year in which the alternative energy device was purchased if the device is operational by April 1 of the next following tax year.

(e) If the alternative fuel vehicle is a gasoline-electric hybrid vehicle not designed for electric plug-in charging, it must be purchased before January 1, 2010.

(4) The credit provided by this section does not affect the computation of basis under this chapter.

(5) The total credits allowed under this section in any one year may not exceed the tax liability of the taxpayer.

(6) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, and any credit not used in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year thereafter.

(7) A nonresident shall be allowed the credit under this section in the proportion provided in ORS 316.117.

(8) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit allowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

(9) If a change in the status of a taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with ORS 316.117.

(10) [A *husband and wife*] **Spouses in a marriage** who file separate returns for a taxable year may each claim a share of the tax credit that would have been allowed on a joint return in proportion to the contribution of each. However, a [*husband or wife*] **spouse** living in a separate principal residence may claim the tax credit in the same amount as permitted a single person.

(11) As used in this section, unless the context requires otherwise:

(a) "Collective investment" means an investment by two or more taxpayers for the acquisition, construction and installation of an alternative energy device for one or more dwellings.

(b) "Noncollective investment" means an investment by an individual taxpayer for the acquisition, construction and installation of an alternative energy device for one or more dwellings.

(c) "Taxpayer" includes a transferee of a verification form under ORS 469B.106 (9).

(12) Notwithstanding any provision of subsection (1) or (2) of this section, the sum of the credit allowed under subsection (1) of this section plus any similar credit allowed for federal income tax purposes may not exceed the cost for the acquisition, construction and installation of the alternative energy device.

SECTION 42. ORS 316.122 is amended to read:

316.122. (1) If the federal taxable income of [*husband and wife*] **spouses in a marriage** (one being a part-year resident and the other a nonresident) is determined on a joint federal return, their taxable income in this state shall be separately determined, unless they elect to file a joint return, in which case their tax on their joint income shall be determined in this state pursuant to ORS 316.037 (3).

(2) If the federal taxable income of *[husband and wife]* **spouses in a marriage** (one being a full-year resident and the other a part-year resident) is determined on a joint federal return, their taxable income in this state shall be separately determined, unless they elect to file a joint return, in which case their tax on their joint income shall be determined in this state pursuant to ORS 316.037 (2).

(3) If the federal taxable income of *[husband and wife]* **spouses in a marriage** (one being a full-year resident and the other a nonresident) is determined on a joint federal return, their taxable income in the state shall be separately determined, unless they elect to file a joint return, in which case their tax on their joint income shall be determined in this state pursuant to ORS 316.037 (3).

(4) For purposes of computing the tax of *[a husband and wife]* **spouses** under this section, if one of the spouses is a full-year resident individual, then as used in ORS 316.037 (2) or (3), that spouse's taxable income derived from Oregon sources is that spouse's entire federal taxable income, defined in the laws of the United States, with the modifications, additions and subtractions provided in this chapter and other laws of this state applicable to personal income taxation.

(5) The provisions of ORS 316.367 with respect to joint returns apply if both *[husband and wife]* **spouses** are part-year residents or full-year nonresidents.

SECTION 43. ORS 316.367 is amended to read:

316.367. *[A husband and wife]* **Spouses in a marriage** may make a joint return with respect to the tax imposed by this chapter even though one of the spouses has neither gross income nor deductions, except that:

(1) No joint return shall be made under this chapter if the spouses are not permitted to file a joint federal income tax return;

(2) If the federal income tax liability of either spouse is determined on a separate federal return, their income tax liabilities under this chapter shall be determined on separate returns;

(3) If the federal income tax liabilities of *[husband and wife]* **the spouses** are determined on a joint federal return, they shall file a joint return under this chapter and their tax liabilities shall be joint and several; and

(4) If neither spouse is required to file a federal income tax return and either or both are required to file an income tax return under this chapter, they may elect to file separate or joint returns and pursuant to such election their liabilities shall be separate or joint and several.

SECTION 44. ORS 316.567 is amended to read:

316.567. (1) Except as provided in subsection (2) of this section, *[a husband and wife]* **spouses in a marriage** may make a single declaration jointly under ORS 316.557 to 316.589. The liability of the *[husband and wife]* **spouses** making such a declaration shall be joint and several.

(2) *[A husband and wife]* **Spouses** may not make a joint declaration:

(a) If either *[the husband or the wife]* **spouse** is a nonresident alien;

(b) If *[they]* **the spouses** are separated under a judgment of divorce or of separate maintenance;

or

(c) If *[they]* **the spouses** have different taxable years.

(3) If *[a husband and wife]* **spouses** make a joint declaration but not a joint return for the taxable year, the *[husband and wife]* **spouses** may, in such manner as they may agree, and after giving notice of the agreement to the Department of Revenue:

(a) Treat the estimated tax for the year as the estimated tax of either *[the husband or of the wife]* **spouse**; or

(b) Divide the estimated tax between them.

(4) If *[a husband and wife]* **the spouses** fail to agree, or fail to notify the department of the manner in which they agree, to the treatment of estimated tax for a taxable year for which they make a joint declaration but not a joint return, the payments shall be allocated between them according to rules adopted by the department. Notwithstanding ORS 314.835, 314.840 or 314.991, the department may disclose to either *[the husband or the wife]* **spouse** the information upon which an allocation of estimated tax was made under this section.

SECTION 45. ORS 316.690 is amended to read:

316.690. (1) Subject to subsection (2) of this section, in addition to other modifications provided in this chapter, and if a taxpayer elects to take foreign income taxes imposed for the taxable year by a foreign country as a credit on the federal income tax return or does not itemize personal deductions on the federal income tax return, there shall be subtracted from federal taxable income in the computation of state taxable income the amount of foreign income taxes imposed for the taxable year by a foreign country.

(2) The deduction for foreign country income taxes provided by this section shall be limited as follows:

(a) Except as provided in paragraph (b) of this subsection, the sum of foreign country income taxes deducted in computing state taxable income and the modification for federal income taxes authorized by ORS 316.680 (1)(b) as limited by ORS 316.695 (3) shall not exceed \$3,000.

(b) In the case of [*a husband and wife*] **spouses in a marriage** filing separate tax returns, the sum described in paragraph (a) of this subsection shall be limited to \$1,500.

SECTION 46. ORS 316.695 is amended to read:

316.695. (1) In addition to the modifications to federal taxable income contained in this chapter, there shall be added to or subtracted from federal taxable income:

(a) If, in computing federal income tax for a tax year, the taxpayer deducted itemized deductions, as defined in section 63(d) of the Internal Revenue Code, the taxpayer shall add the amount of itemized deductions deducted (the itemized deductions less an amount, if any, by which the itemized deductions are reduced under section 68 of the Internal Revenue Code).

(b) If, in computing federal income tax for a tax year, the taxpayer deducted the standard deduction, as defined in section 63(c) of the Internal Revenue Code, the taxpayer shall add the amount of the standard deduction deducted.

(c)(A) From federal taxable income there shall be subtracted the larger of (i) the taxpayer's itemized deductions or (ii) a standard deduction. Except as provided in subsection (8) of this section, for purposes of this subparagraph, "standard deduction" means the sum of the basic standard deduction and the additional standard deduction.

(B) For purposes of subparagraph (A) of this paragraph, the basic standard deduction is:

(i) \$3,280, in the case of joint return filers or a surviving spouse;

(ii) \$1,640, in the case of an individual who is not a married individual and is not a surviving spouse;

(iii) \$1,640, in the case of a married individual who files a separate return; or

(iv) \$2,640, in the case of a head of household.

(C)(i) For purposes of subparagraph (A) of this paragraph for tax years beginning on or after January 1, 2003, the Department of Revenue shall annually recompute the basic standard deduction for each category of return filer listed under subparagraph (B) of this paragraph. The basic standard deduction shall be computed by dividing the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year by the average U.S. City Average Consumer Price Index for the second quarter of 2002, then multiplying that quotient by the amount listed under subparagraph (B) of this paragraph for each category of return filer.

(ii) If any change in the maximum household income determined under this subparagraph is not a multiple of \$5, the increase shall be rounded to the next lower multiple of \$5.

(iii) As used in this subparagraph, "U.S. City Average Consumer Price Index" means the U.S. City Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor Statistics of the United States Department of Labor.

(D) For purposes of subparagraph (A) of this paragraph, the additional standard deduction is the sum of each additional amount to which the taxpayer is entitled under subsection (7) of this section.

(E) As used in subparagraph (B) of this paragraph, "surviving spouse" and "head of household" have the [*meaning*] **meanings** given those terms in section 2 of the Internal Revenue Code.

(F) In the case of the following, the standard deduction referred to in subparagraph (A) of this paragraph shall be zero:

(i) [A *husband or wife*] **One of the spouses in a marriage** filing a separate return where the other spouse has claimed itemized deductions under subparagraph (A) of this paragraph;

(ii) A nonresident alien individual;

(iii) An individual making a return for a period of less than 12 months on account of a change in the individual's annual accounting period;

(iv) An estate or trust;

(v) A common trust fund; or

(vi) A partnership.

(d) For the purposes of paragraph (c)(A) of this subsection, the taxpayer's itemized deductions are the amount of the taxpayer's itemized deductions as defined in section 63(d) of the Internal Revenue Code (reduced, if applicable, as described under section 68 of the Internal Revenue Code) minus the deduction for Oregon income tax (reduced, if applicable, by the proportion that the reduction in federal itemized deductions resulting from section 68 of the Internal Revenue Code bears to the amount of federal itemized deductions as defined for purposes of section 68 of the Internal Revenue Code).

(2)(a) There shall be subtracted from federal taxable income any portion of the distribution of a pension, profit-sharing, stock bonus or other retirement plan, representing that portion of contributions which were taxed by the State of Oregon but not taxed by the federal government under laws in effect for tax years beginning prior to January 1, 1969, or for any subsequent year in which the amount that was contributed to the plan under the Internal Revenue Code was greater than the amount allowed under this chapter.

(b) Interest or other earnings on any excess contributions of a pension, profit-sharing, stock bonus or other retirement plan not permitted to be deducted under paragraph (a) of this subsection may not be added to federal taxable income in the year earned by the plan and may not be subtracted from federal taxable income in the year received by the taxpayer.

(3)(a) Except as provided in subsection (4) of this section, there shall be added to federal taxable income the amount of any federal income taxes in excess of the amount provided in paragraphs (b) to (d) of this subsection, accrued by the taxpayer during the tax year as described in ORS 316.685, less the amount of any refund of federal taxes previously accrued for which a tax benefit was received.

(b) The limits applicable to this subsection are:

(A) \$5,500, if the federal adjusted gross income of the taxpayer for the tax year is less than \$125,000, or, if reported on a joint return, less than \$250,000.

(B) \$4,400, if the federal adjusted gross income of the taxpayer for the tax year is \$125,000 or more and less than \$130,000, or, if reported on a joint return, \$250,000 or more and less than \$260,000.

(C) \$3,300, if the federal adjusted gross income of the taxpayer for the tax year is \$130,000 or more and less than \$135,000, or, if reported on a joint return, \$260,000 or more and less than \$270,000.

(D) \$2,200, if the federal adjusted gross income of the taxpayer for the tax year is \$135,000 or more and less than \$140,000, or, if reported on a joint return, \$270,000 or more and less than \$280,000.

(E) \$1,100, if the federal adjusted gross income of the taxpayer for the tax year is \$140,000 or more and less than \$145,000, or, if reported on a joint return, \$280,000 or more and less than \$290,000.

(c) If the federal adjusted gross income of the taxpayer is \$145,000 or more for the tax year, or, if reported on a joint return, \$290,000 or more, the limit is zero and the taxpayer is not allowed a subtraction for federal income taxes under ORS 316.680 (1) for the tax year.

(d) In the case of [*a husband and wife*] **spouses in a marriage** filing separate tax returns, the amount added shall be in the amount of any federal income taxes in excess of 50 percent of the amount provided for individual taxpayers under paragraphs (a) to (c) of this subsection, less the amount of any refund of federal taxes previously accrued for which a tax benefit was received.

(e) For purposes of this subsection, the limits applicable to a joint return shall apply to a head of household or a surviving spouse, as defined in section 2(a) and (b) of the Internal Revenue Code.

(f)(A) For a calendar year beginning on or after January 1, 2008, the Department of Revenue shall make a cost-of-living adjustment to the federal income tax threshold amounts described in paragraphs (b) and (d) of this subsection.

(B) The cost-of-living adjustment for a calendar year is the percentage by which the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the monthly averaged index for the period beginning September 1, 2005, and ending August 31, 2006.

(C) As used in this paragraph, "U.S. City Average Consumer Price Index" means the U.S. City Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor Statistics of the United States Department of Labor.

(D) If any adjustment determined under subparagraph (B) of this paragraph is not a multiple of \$50, the adjustment shall be rounded to the next lower multiple of \$50.

(E) The adjustment shall apply to all tax years beginning in the calendar year for which the adjustment is made.

(4)(a) In addition to the adjustments required by ORS 316.130, a full-year nonresident individual shall add to taxable income a proportion of any accrued federal income taxes as computed under ORS 316.685 in excess of the amount provided in subsection (3) of this section in the proportion provided in ORS 316.117.

(b) In the case of [*a husband and wife*] **spouses in a marriage** filing separate tax returns, the amount added under this subsection shall be computed in a manner consistent with the computation of the amount to be added in the case of [*a husband and wife*] **spouses in a marriage** filing separate returns under subsection (3) of this section. The method of computation shall be determined by the Department of Revenue by rule.

(5) Subsections (3)(d) and (4)(b) of this section shall not apply to married individuals living apart as defined in section 7703(b) of the Internal Revenue Code.

(6)(a) For tax years beginning on or after January 1, 1981, and prior to January 1, 1983, income or loss taken into account in determining federal taxable income by a shareholder of an S corporation pursuant to sections 1373 to 1375 of the Internal Revenue Code shall be adjusted for purposes of determining Oregon taxable income, to the extent that as income or loss of the S corporation, they were required to be adjusted under the provisions of ORS chapter 317.

(b) For tax years beginning on or after January 1, 1983, items of income, loss or deduction taken into account in determining federal taxable income by a shareholder of an S corporation pursuant to sections 1366 to 1368 of the Internal Revenue Code shall be adjusted for purposes of determining Oregon taxable income, to the extent that as items of income, loss or deduction of the shareholder the items are required to be adjusted under the provisions of this chapter.

(c) The tax years referred to in paragraphs (a) and (b) of this subsection are those of the S corporation.

(d) As used in paragraph (a) of this subsection, an S corporation refers to an electing small business corporation.

(7)(a) The taxpayer shall be entitled to an additional amount, as referred to in subsection (1)(c)(A) and (D) of this section, of \$1,000:

(A) For the taxpayer if the taxpayer has attained age 65 before the close of the taxpayer's tax year; and

(B) For the spouse of the taxpayer if the spouse has attained age 65 before the close of the tax year and an additional exemption is allowable to the taxpayer for such spouse for federal income tax purposes under section 151(b) of the Internal Revenue Code.

(b) The taxpayer shall be entitled to an additional amount, as referred to in subsection (1)(c)(A) and (D) of this section, of \$1,000:

(A) For the taxpayer if the taxpayer is blind at the close of the tax year; and

(B) For the spouse of the taxpayer if the spouse is blind as of the close of the tax year and an additional exemption is allowable to the taxpayer for such spouse for federal income tax purposes under section 151(b) of the Internal Revenue Code. For purposes of this subparagraph, if the spouse dies during the tax year, the determination of whether such spouse is blind shall be made immediately prior to death.

(c) In the case of an individual who is not married and is not a surviving spouse, paragraphs (a) and (b) of this subsection shall be applied by substituting "\$1,200" for "\$1,000."

(d) For purposes of this subsection, an individual is blind only if the individual's central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if the individual's visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(8) In the case of an individual with respect to whom a deduction under section 151 of the Internal Revenue Code is allowable for federal income tax purposes to another taxpayer for a tax year beginning in the calendar year in which the individual's tax year begins, the basic standard deduction (referred to in subsection (1)(c)(B) of this section) applicable to such individual for such individual's tax year shall equal the lesser of:

(a) The amount allowed to the individual under section 63(c)(5) of the Internal Revenue Code for federal income tax purposes for the tax year for which the deduction is being claimed; or

(b) The amount determined under subsection (1)(c)(B) of this section.

SECTION 47. ORS 408.730 is amended to read:

408.730. (1) The commander or executive head of any veterans organization organized under a charter issued by an Act of Congress, proposing to undertake the relief provided for in ORS 408.720, shall file with the county clerk of the county in which the veterans organization may be situated, the names of its commander or executive head and its relief committee, if any. The commander or executive head shall also file a notice in writing that such veterans organization will undertake the relief of the indigent persons provided for in ORS 408.720, and by the fourth Monday in January of each year shall file with the county clerk a similar notice, and render and file a detailed statement of the relief furnished during the preceding year, including the amount thereof, the names of the persons to whom furnished and on whose recommendation, and such other facts and suggestions as are deemed material.

(2) The commander or executive head shall also file a bond, with one or more sureties, to be approved by the county court or judge thereof, or board of county commissioners, in a sum not less than \$100 and not more than \$1,000. The amount of the bond shall be fixed by the court, judge or board. It shall run to the county, and be conditioned by stating that if said commander or executive head faithfully applies all funds that come into the hands of the commander or executive head for that purpose, to the relief of the indigent persons named in ORS 408.720, it is void. If the bond is enforced there shall be recovered from the principal and sureties thereon the amount which is found to be misappropriated, which shall be paid into the county treasury.

(3) If the county operates on a fiscal year ending on June 30, the notice, statement and bond required by this section may be filed on the fourth Monday in July of each year rather than on the fourth Monday of January. If the statement required by subsection (1) of this section is filed at the time provided in this subsection, this statement shall cover the preceding fiscal year.

(4) On the approval and filing of the bond, and on the recommendation of the relief committee of any such veterans organization, orders shall be drawn in favor of the commander or executive head in the same manner as orders are now drawn for the relief of the poor. The orders shall designate thereon the names of the persons for whom the relief is intended and, in like manner, a sum not exceeding \$100 may be drawn to pay the funeral expenses of an indigent veteran, and the indigent [*wives, widows and the*] **spouses and surviving spouses in marriages and** minor children of such veterans.

SECTION 48. ORS 418.210 is amended to read:

418.210. ORS 418.205 to 418.325 shall not apply to:

(1) Homes established and maintained by fraternal organizations wherein only members, their [wives, widows] **spouses and surviving spouses in marriages** and children are admitted as residents;

(2) Any family foster home that is subject to ORS 418.625 to 418.645;

(3) Any child care facility that is subject to ORS 329A.030 and 329A.250 to 329A.450;

(4) Any individual, or home of an individual, providing respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056;

(5) Any private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056; or

(6) A private residential boarding school as defined in ORS 418.205 (5)(b).

SECTION 49. ORS 419B.040 is amended to read:

419B.040. (1) In the case of abuse of a child, the privileges created in ORS 40.230 to 40.255, including the psychotherapist-patient privilege, the physician-patient privilege, the privileges extended to nurses, to staff members of schools and to regulated social workers and the [husband-wife] **spousal** privilege, shall not be a ground for excluding evidence regarding a child's abuse, or the cause thereof, in any judicial proceeding resulting from a report made pursuant to ORS 419B.010 to 419B.050.

(2) In any judicial proceedings resulting from a report made pursuant to ORS 419B.010 to 419B.050, either spouse shall be a competent and compellable witness against the other.

SECTION 50. ORS 432.088, as amended by section 51, chapter 45, Oregon Laws 2014, is amended to read:

432.088. (1) A report of live birth for each live birth that occurs in this state shall be submitted to the Center for Health Statistics, or as otherwise directed by the State Registrar of the Center for Health Statistics, within five calendar days after the live birth and shall be registered if the report has been completed and filed in accordance with this section.

(2) The physician, institution or other person providing prenatal care related to a live birth shall provide prenatal care information as required by the state registrar by rule to the institution where the delivery is expected to occur not less than 30 calendar days prior to the expected delivery date.

(3) When a live birth occurs in an institution or en route to an institution, the person in charge of the institution or an authorized designee shall obtain all data required by the state registrar, prepare the report of live birth, certify either by signature or electronic signature that the child was born alive at the place and time and on the date stated and submit the report as described in subsection (1) of this section.

(4) In obtaining the information required for the report of live birth, an institution shall use information gathering procedures provided or approved by the state registrar. Institutions may establish procedures to transfer, electronically or otherwise, information required for the report from other sources, provided that the procedures are reviewed and approved by the state registrar prior to the implementation of the procedures to ensure that the information being transferred is the same as the information being requested.

(5)(a) When a live birth occurs outside an institution, the information for the report of live birth shall be submitted within five calendar days of the live birth in a format adopted by the state registrar by rule in the following order of priority:

(A) By an institution where the mother and child are examined, if examination occurs within 24 hours of the live birth;

(B) By a physician in attendance at the live birth;

(C) By a direct entry midwife licensed under ORS 687.405 to 687.495 in attendance at the live birth;

(D) By a person not described in subparagraphs (A) to (C) of this paragraph and not required by law to be licensed to practice midwifery who is registered with the Center for Health Statistics to submit reports of live birth and who was in attendance at the live birth; or

(E) By the father, the mother or, in the absence of the father and the inability of the mother, the person in charge of the premises where the live birth occurred.

(b) The state registrar may establish by rule the manner of submitting the information for the report of live birth by a person described in paragraph (a)(D) of this subsection or a physician or licensed direct entry midwife who attends the birth of his or her own child, grandchild, niece or nephew.

(6) When a report of live birth is submitted that does not include the minimum acceptable documentation required by this section or any rules adopted under this section, or when the state registrar has cause to question the validity or adequacy of the documentation, the state registrar, in the state registrar's discretion, may refuse to register the live birth and shall enter an order to that effect stating the reasons for the action. The state registrar shall advise the applicant of the right to appeal under ORS 183.484.

(7) When a live birth occurs on a moving conveyance:

(a) Within the United States and the child is first removed from the conveyance in this state, the live birth shall be registered in this state and the place where it is first removed shall be considered the place of live birth.

(b) While in international waters or air space or in a foreign country or its air space and the child is first removed from the conveyance in this state, the birth shall be registered in this state but the report of live birth shall show the actual place of birth insofar as can be determined.

(8) For purposes of making a report of live birth and live birth registration, the woman who gives live birth is the live birth mother. If a court of competent jurisdiction determines that a woman other than the live birth mother is the biological or genetic mother, the court may order the state registrar to amend the record of live birth. The record of live birth shall then be placed under seal.

(9)(a) If the mother is married at the time of either conception or live birth, or within 300 days before the live birth, the name of the [*husband*] **mother's spouse in a marriage** shall be entered on the report of live birth as the [*father*] **parent** of the child unless parentage has been determined otherwise by a court of competent jurisdiction.

(b) If the mother is not married at the time of either conception or live birth, or within 300 days before the live birth, the name of the [*father*] **parent** shall not be entered on the report of live birth unless a voluntary acknowledgment of paternity form or other form prescribed under ORS 432.098 is:

(A) Signed by the mother and the person to be named as the [*father*] **parent**; and

(B) Filed with the state registrar.

(c) If the mother is a partner in a domestic partnership registered by the state at the time of either conception or live birth, or between conception and live birth, the name of the mother's partner shall be entered on the report of live birth as a parent of the child, unless parentage has been determined otherwise by a court of competent jurisdiction.

(d) In any case in which paternity of a child is determined by a court of competent jurisdiction, or by an administrative determination of paternity, the Center for Health Statistics shall enter the name of the [*father*] **parent** on the new record of live birth. The Center for Health Statistics shall change the surname of the child if so ordered by the court or, in a proceeding under ORS 416.430, by the administrator as defined in ORS 25.010.

(e) If a biological parent is not named on the report of live birth, information other than the identity of the biological parent may be entered on the report.

(10) A parent of the child, or other informant as determined by the state registrar by rule, shall verify the accuracy of the personal data to be entered on a report of live birth in time to permit submission of the report within the five calendar days of the live birth.

(11) A report of live birth submitted after five calendar days, but within one year after the date of live birth, shall be registered in the manner prescribed in this section. The record shall not be marked "Delayed."

(12) The state registrar may require additional evidence in support of the facts of live birth.

SECTION 51. ORS 496.146 is amended to read:

496.146. In addition to any other duties or powers provided by law, the State Fish and Wildlife Commission:

(1) May accept, from whatever source, appropriations, gifts or grants of money or other property for the purposes of wildlife management, and use such money or property for wildlife management purposes.

(2) May sell or exchange property owned by the state and used for wildlife management purposes when the commission determines that such sale or exchange would be advantageous to the state wildlife policy and management programs.

(3) May acquire, introduce, propagate and stock wildlife species in such manner as the commission determines will carry out the state wildlife policy and management programs.

(4) May by rule authorize the issuance of such licenses, tags and permits for angling, taking, hunting and trapping and may prescribe such tagging and sealing procedures as the commission determines necessary to carry out the provisions of the wildlife laws or to obtain information for use in wildlife management. Permits issued pursuant to this subsection may include special hunting permits for a person and immediate family members of the person to hunt on land owned by that person in areas where permits for deer or elk are limited by quota. As used in this subsection, "immediate family members" means [*husband, wife, father, mother,*] **spouses in a marriage, parents, brothers, brothers-in-law, sisters, sisters-in-law, sons, daughters, stepchildren and grandchildren.** A landowner who is qualified to receive landowner preference tags from the commission may request two additional tags for providing public access and two additional tags for wildlife habitat programs. This request shall be made to the Access and Habitat Board with supporting evidence that the access is significant and the habitat programs benefit wildlife. The board may recommend that the commission grant the request. When a landowner is qualified under landowner preference rules adopted by the commission and receives a controlled hunt tag for that unit or a landowner preference tag for the landowner's property and does not use the tag during the regular season, the landowner may use that tag to take an antlerless animal, when approved by the State Department of Fish and Wildlife, to alleviate damage that is presently occurring to the landowner's property.

(5) May by rule prescribe procedures requiring the holder of any license, tag or permit issued pursuant to the wildlife laws to keep records and make reports concerning the time, manner and place of taking wildlife, the quantities taken and such other information as the commission determines necessary for proper enforcement of the wildlife laws or to obtain information for use in wildlife management.

(6) May establish special hunting and angling areas or seasons in which only persons less than 18 years of age or over 65 years of age are permitted to hunt or angle.

(7) May acquire by purchase, lease, agreement or gift real property and all appropriate interests therein for wildlife management and wildlife-oriented recreation purposes.

(8) May acquire by purchase, lease, agreement, gift, exercise of eminent domain or otherwise real property and all interests therein and establish, operate and maintain thereon public hunting areas.

(9) May establish and develop wildlife refuge and management areas and prescribe rules governing the use of such areas and the use of wildlife refuge and management areas established and developed pursuant to any other provision of law.

(10) May by rule prescribe fees for licenses, tags, permits and applications issued or required pursuant to the wildlife laws, and user charges for angling, hunting or other recreational uses of lands owned or managed by the commission, unless such fees or user charges are otherwise prescribed by law. Except for licenses issued pursuant to subsection (14) of this section, no fee or user charge prescribed by the commission pursuant to this subsection shall exceed \$100.

(11) May enter into contracts with any person or governmental agency for the development and encouragement of wildlife research and management programs and projects.

(12) May perform such acts as may be necessary for the establishment and implementation of cooperative wildlife management programs with agencies of the federal government.

(13) May offer and pay rewards for the arrest and conviction of any person who has violated any of the wildlife laws. No such reward shall exceed \$100 for any one arrest and conviction.

(14) May by rule prescribe fees for falconry licenses issued pursuant to the wildlife laws, unless such fees are otherwise prescribed by law. Fees prescribed by the commission pursuant to this subsection shall be based on actual or projected costs of administering falconry regulations and shall not exceed \$250.

(15) May establish special fishing and hunting seasons and bag limits applicable only to persons with disabilities.

(16) May adopt optimum populations for deer and elk consistent with ORS 496.012. These population levels shall be reviewed at least once every five years.

(17) Shall establish a preference system so that individuals who are unsuccessful in controlled hunt permit drawings for deer and elk hunting have reasonable assurance of success in those drawings in subsequent years. In establishing the preference system, the commission shall consider giving additional preference points to persons who have been issued a resident pioneer hunting license pursuant to ORS 497.102.

(18) May sell advertising in State Department of Fish and Wildlife publications, including annual hunting and angling regulation publications.

(19) May, notwithstanding the fees required by ORS 497.112, provide free hunting tags to an organization that sponsors hunting trips for terminally ill children.

(20) Shall, after consultation with the State Department of Agriculture, adopt rules prohibiting the use of the World Wide Web, other Internet protocols or broadcast or closed circuit media to remotely control a weapon for the purpose of hunting any game bird, wildlife, game mammal or other mammal. The rules may exempt the State Department of Fish and Wildlife or agents of the department from the prohibition.

(21) May adopt rules establishing a schedule of civil penalties, not to exceed \$6,500 per violation, for violations of provisions of the wildlife laws or rules adopted by the commission under the wildlife laws. Civil penalties established under this subsection must be imposed in the manner provided by ORS 183.745 and must be deposited in the State Wildlife Fund established under ORS 496.300.

(22) May by rule impose a surcharge not to exceed \$25 for the renewal of a hunting license on any person who fails to comply with mandatory hunting reporting requirements. Amounts collected as surcharges under this subsection must be deposited in the State Wildlife Fund established under ORS 496.300.

(23) May by rule establish annual and daily Columbia Basin salmon, steelhead and sturgeon recreational fishing endorsements with a fee not to exceed \$9.75 per annual license and \$1 per day per daily license. An endorsement is required to fish for salmon, steelhead or sturgeon in the Columbia Basin and is in addition to and not in lieu of angling licenses and tags required under the wildlife laws. Amounts collected as fees under this subsection must be deposited in the Columbia River Fisheries Enhancement Fund established under section 7, chapter 672, Oregon Laws 2013.

(24) May by rule establish multiyear licenses and may prescribe fees for such licenses. Fees prescribed by the commission for multiyear licenses may provide for a discount from the annual license fees that would otherwise be payable for the period of time covered by the multiyear license.

SECTION 52. ORS 496.146, as amended by section 10, chapter 672, Oregon Laws 2013, is amended to read:

496.146. In addition to any other duties or powers provided by law, the State Fish and Wildlife Commission:

(1) May accept, from whatever source, appropriations, gifts or grants of money or other property for the purposes of wildlife management, and use such money or property for wildlife management purposes.

(2) May sell or exchange property owned by the state and used for wildlife management purposes when the commission determines that such sale or exchange would be advantageous to the state wildlife policy and management programs.

(3) May acquire, introduce, propagate and stock wildlife species in such manner as the commission determines will carry out the state wildlife policy and management programs.

(4) May by rule authorize the issuance of such licenses, tags and permits for angling, taking, hunting and trapping and may prescribe such tagging and sealing procedures as the commission determines necessary to carry out the provisions of the wildlife laws or to obtain information for use in wildlife management. Permits issued pursuant to this subsection may include special hunting permits for a person and immediate family members of the person to hunt on land owned by that person in areas where permits for deer or elk are limited by quota. As used in this subsection, "immediate family members" means [*husband, wife, father, mother,*] **spouses in a marriage, parents, brothers, brothers-in-law, sisters, sisters-in-law, sons, daughters, stepchildren and grandchildren.** A landowner who is qualified to receive landowner preference tags from the commission may request two additional tags for providing public access and two additional tags for wildlife habitat programs. This request shall be made to the Access and Habitat Board with supporting evidence that the access is significant and the habitat programs benefit wildlife. The board may recommend that the commission grant the request. When a landowner is qualified under landowner preference rules adopted by the commission and receives a controlled hunt tag for that unit or a landowner preference tag for the landowner's property and does not use the tag during the regular season, the landowner may use that tag to take an antlerless animal, when approved by the State Department of Fish and Wildlife, to alleviate damage that is presently occurring to the landowner's property.

(5) May by rule prescribe procedures requiring the holder of any license, tag or permit issued pursuant to the wildlife laws to keep records and make reports concerning the time, manner and place of taking wildlife, the quantities taken and such other information as the commission determines necessary for proper enforcement of the wildlife laws or to obtain information for use in wildlife management.

(6) May establish special hunting and angling areas or seasons in which only persons less than 18 years of age or over 65 years of age are permitted to hunt or angle.

(7) May acquire by purchase, lease, agreement or gift real property and all appropriate interests therein for wildlife management and wildlife-oriented recreation purposes.

(8) May acquire by purchase, lease, agreement, gift, exercise of eminent domain or otherwise real property and all interests therein and establish, operate and maintain thereon public hunting areas.

(9) May establish and develop wildlife refuge and management areas and prescribe rules governing the use of such areas and the use of wildlife refuge and management areas established and developed pursuant to any other provision of law.

(10) May by rule prescribe fees for licenses, tags, permits and applications issued or required pursuant to the wildlife laws, and user charges for angling, hunting or other recreational uses of lands owned or managed by the commission, unless such fees or user charges are otherwise prescribed by law. Except for licenses issued pursuant to subsection (14) of this section, no fee or user charge prescribed by the commission pursuant to this subsection shall exceed \$100.

(11) May enter into contracts with any person or governmental agency for the development and encouragement of wildlife research and management programs and projects.

(12) May perform such acts as may be necessary for the establishment and implementation of cooperative wildlife management programs with agencies of the federal government.

(13) May offer and pay rewards for the arrest and conviction of any person who has violated any of the wildlife laws. No such reward shall exceed \$100 for any one arrest and conviction.

(14) May by rule prescribe fees for falconry licenses issued pursuant to the wildlife laws, unless such fees are otherwise prescribed by law. Fees prescribed by the commission pursuant to this subsection shall be based on actual or projected costs of administering falconry regulations and shall not exceed \$250.

(15) May establish special fishing and hunting seasons and bag limits applicable only to persons with disabilities.

(16) May adopt optimum populations for deer and elk consistent with ORS 496.012. These population levels shall be reviewed at least once every five years.

(17) Shall establish a preference system so that individuals who are unsuccessful in controlled hunt permit drawings for deer and elk hunting have reasonable assurance of success in those drawings in subsequent years. In establishing the preference system, the commission shall consider giving additional preference points to persons who have been issued a resident pioneer hunting license pursuant to ORS 497.102.

(18) May sell advertising in State Department of Fish and Wildlife publications, including annual hunting and angling regulation publications.

(19) May, notwithstanding the fees required by ORS 497.112, provide free hunting tags to an organization that sponsors hunting trips for terminally ill children.

(20) Shall, after consultation with the State Department of Agriculture, adopt rules prohibiting the use of the World Wide Web, other Internet protocols or broadcast or closed circuit media to remotely control a weapon for the purpose of hunting any game bird, wildlife, game mammal or other mammal. The rules may exempt the State Department of Fish and Wildlife or agents of the department from the prohibition.

(21) May adopt rules establishing a schedule of civil penalties, not to exceed \$6,500 per violation, for violations of provisions of the wildlife laws or rules adopted by the commission under the wildlife laws. Civil penalties established under this subsection must be imposed in the manner provided by ORS 183.745 and must be deposited in the State Wildlife Fund established under ORS 496.300.

(22) May by rule impose a surcharge not to exceed \$25 for the renewal of a hunting license on any person who fails to comply with mandatory hunting reporting requirements. Amounts collected as surcharges under this subsection must be deposited in the State Wildlife Fund established under ORS 496.300.

(23) May by rule establish multiyear licenses and may prescribe fees for such licenses. Fees prescribed by the commission for multiyear licenses may provide for a discount from the annual license fees that would otherwise be payable for the period of time covered by the multiyear license.

SECTION 53. ORS 656.005 is amended to read:

656.005. (1) "Average weekly wage" means the Oregon average weekly wage in covered employment, as determined by the Employment Department, for the last quarter of the calendar year preceding the fiscal year in which the injury occurred.

(2) "Beneficiary" means an injured worker, and the [*husband, wife*] **spouse in a marriage**, child or dependent of a worker, who is entitled to receive payments under this chapter. "Beneficiary" does not include:

(a) A spouse of an injured worker living in a state of abandonment for more than one year at the time of the injury or subsequently. A spouse who has lived separate and apart from the worker for a period of two years and who has not during that time received or attempted by process of law to collect funds for support or maintenance is considered living in a state of abandonment.

(b) A person who intentionally causes the compensable injury to or death of an injured worker.

(3) "Board" means the Workers' Compensation Board.

(4) "Carrier-insured employer" means an employer who provides workers' compensation coverage with the State Accident Insurance Fund Corporation or an insurer authorized under ORS chapter 731 to transact workers' compensation insurance in this state.

(5) "Child" includes a posthumous child, a child legally adopted prior to the injury, a child toward whom the worker stands in loco parentis, a child born out of wedlock and a stepchild, if such stepchild was, at the time of the injury, a member of the worker's family and substantially dependent upon the worker for support. A dependent child who is an invalid is a child, for purposes of benefits, regardless of age, so long as the child was an invalid at the time of the accident and thereafter remains an invalid substantially dependent on the worker for support. For purposes of this chapter, a dependent child who is an invalid is considered to be a child under 18 years of age.

(6) “Claim” means a written request for compensation from a subject worker or someone on the worker’s behalf, or any compensable injury of which a subject employer has notice or knowledge.

(7)(a) A “compensable injury” is an accidental injury, or accidental injury to prosthetic appliances, arising out of and in the course of employment requiring medical services or resulting in disability or death; an injury is accidental if the result is an accident, whether or not due to accidental means, if it is established by medical evidence supported by objective findings, subject to the following limitations:

(A) No injury or disease is compensable as a consequence of a compensable injury unless the compensable injury is the major contributing cause of the consequential condition.

(B) If an otherwise compensable injury combines at any time with a preexisting condition to cause or prolong disability or a need for treatment, the combined condition is compensable only if, so long as and to the extent that the otherwise compensable injury is the major contributing cause of the disability of the combined condition or the major contributing cause of the need for treatment of the combined condition.

(b) “Compensable injury” does not include:

(A) Injury to any active participant in assaults or combats which are not connected to the job assignment and which amount to a deviation from customary duties;

(B) Injury incurred while engaging in or performing, or as the result of engaging in or performing, any recreational or social activities primarily for the worker’s personal pleasure; or

(C) Injury the major contributing cause of which is demonstrated to be by a preponderance of the evidence the injured worker’s consumption of alcoholic beverages or the unlawful consumption of any controlled substance, unless the employer permitted, encouraged or had actual knowledge of such consumption.

(c) A “disabling compensable injury” is an injury which entitles the worker to compensation for disability or death. An injury is not disabling if no temporary benefits are due and payable, unless there is a reasonable expectation that permanent disability will result from the injury.

(d) A “nondisabling compensable injury” is any injury which requires medical services only.

(8) “Compensation” includes all benefits, including medical services, provided for a compensable injury to a subject worker or the worker’s beneficiaries by an insurer or self-insured employer pursuant to this chapter.

(9) “Department” means the Department of Consumer and Business Services.

(10) “Dependent” means any of the following-named relatives of a worker whose death results from any injury: [*Father, mother, grandfather, grandmother, stepfather, stepmother*] **Parent, grandparent, stepparent**, grandson, granddaughter, brother, sister, half sister, half brother, niece or nephew, who at the time of the accident, are dependent in whole or in part for their support upon the earnings of the worker. Unless otherwise provided by treaty, aliens not residing within the United States at the time of the accident other than [*father, mother, husband, wife*] **parent, spouse in a marriage** or children are not included within the term “dependent.”

(11) “Director” means the Director of the Department of Consumer and Business Services.

(12)(a) “Doctor” or “physician” means a person duly licensed to practice one or more of the healing arts in any country or in any state, territory or possession of the United States within the limits of the license of the licentiate.

(b) Except as otherwise provided for workers subject to a managed care contract, “attending physician” means a doctor, physician or physician assistant who is primarily responsible for the treatment of a worker’s compensable injury and who is:

(A) A medical doctor or doctor of osteopathy licensed under ORS 677.100 to 677.228 by the Oregon Medical Board, or a podiatric physician and surgeon licensed under ORS 677.805 to 677.840 by the Oregon Medical Board, an oral and maxillofacial surgeon licensed by the Oregon Board of Dentistry or a similarly licensed doctor in any country or in any state, territory or possession of the United States; or

(B) For a cumulative total of 60 days from the first visit on the initial claim or for a cumulative total of 18 visits, whichever occurs first, to any of the medical service providers listed in this subparagraph, a:

(i) Doctor or physician licensed by the State Board of Chiropractic Examiners for the State of Oregon under ORS chapter 684 or a similarly licensed doctor or physician in any country or in any state, territory or possession of the United States;

(ii) Physician assistant licensed by the Oregon Medical Board in accordance with ORS 677.505 to 677.525 or a similarly licensed physician assistant in any country or in any state, territory or possession of the United States; or

(iii) Doctor of naturopathy or naturopathic physician licensed by the Oregon Board of Naturopathic Medicine under ORS chapter 685 or a similarly licensed doctor or physician in any country or in any state, territory or possession of the United States.

(c) Except as otherwise provided for workers subject to a managed care contract, “attending physician” does not include a physician who provides care in a hospital emergency room and refers the injured worker to a primary care physician for follow-up care and treatment.

(d) “Consulting physician” means a doctor or physician who examines a worker or the worker’s medical record to advise the attending physician or nurse practitioner authorized to provide compensable medical services under ORS 656.245 regarding treatment of a worker’s compensable injury.

(13)(a) “Employer” means any person, including receiver, administrator, executor or trustee, and the state, state agencies, counties, municipal corporations, school districts and other public corporations or political subdivisions, who contracts to pay a remuneration for and secures the right to direct and control the services of any person.

(b) Notwithstanding paragraph (a) of this subsection, for purposes of this chapter, the client of a temporary service provider is not the employer of temporary workers provided by the temporary service provider.

(c) As used in paragraph (b) of this subsection, “temporary service provider” has the meaning for that term provided in ORS 656.850.

(14) “Insurer” means the State Accident Insurance Fund Corporation or an insurer authorized under ORS chapter 731 to transact workers’ compensation insurance in this state or an assigned claims agent selected by the director under ORS 656.054.

(15) “Consumer and Business Services Fund” means the fund created by ORS 705.145.

(16) “Invalid” means one who is physically or mentally incapacitated from earning a livelihood.

(17) “Medically stationary” means that no further material improvement would reasonably be expected from medical treatment, or the passage of time.

(18) “Noncomplying employer” means a subject employer who has failed to comply with ORS 656.017.

(19) “Objective findings” in support of medical evidence are verifiable indications of injury or disease that may include, but are not limited to, range of motion, atrophy, muscle strength and palpable muscle spasm. “Objective findings” does not include physical findings or subjective responses to physical examinations that are not reproducible, measurable or observable.

(20) “Palliative care” means medical service rendered to reduce or moderate temporarily the intensity of an otherwise stable medical condition, but does not include those medical services rendered to diagnose, heal or permanently alleviate or eliminate a medical condition.

(21) “Party” means a claimant for compensation, the employer of the injured worker at the time of injury and the insurer, if any, of such employer.

(22) “Payroll” means a record of wages payable to workers for their services and includes commissions, value of exchange labor and the reasonable value of board, rent, housing, lodging or similar advantage received from the employer. However, “payroll” does not include overtime pay, vacation pay, bonus pay, tips, amounts payable under profit-sharing agreements or bonus payments to reward workers for safe working practices. Bonus pay is limited to payments which are not anticipated under the contract of employment and which are paid at the sole discretion of the em-

ployer. The exclusion from payroll of bonus payments to reward workers for safe working practices is only for the purpose of calculations based on payroll to determine premium for workers' compensation insurance, and does not affect any other calculation or determination based on payroll for the purposes of this chapter.

(23) "Person" includes partnership, joint venture, association, limited liability company and corporation.

(24)(a) "Preexisting condition" means, for all industrial injury claims, any injury, disease, congenital abnormality, personality disorder or similar condition that contributes to disability or need for treatment, provided that:

(A) Except for claims in which a preexisting condition is arthritis or an arthritic condition, the worker has been diagnosed with such condition, or has obtained medical services for the symptoms of the condition regardless of diagnosis; and

(B)(i) In claims for an initial injury or omitted condition, the diagnosis or treatment precedes the initial injury;

(ii) In claims for a new medical condition, the diagnosis or treatment precedes the onset of the new medical condition; or

(iii) In claims for a worsening pursuant to ORS 656.273 or 656.278, the diagnosis or treatment precedes the onset of the worsened condition.

(b) "Preexisting condition" means, for all occupational disease claims, any injury, disease, congenital abnormality, personality disorder or similar condition that contributes to disability or need for treatment and that precedes the onset of the claimed occupational disease, or precedes a claim for worsening in such claims pursuant to ORS 656.273 or 656.278.

(c) For the purposes of industrial injury claims, a condition does not contribute to disability or need for treatment if the condition merely renders the worker more susceptible to the injury.

(25) "Self-insured employer" means an employer or group of employers certified under ORS 656.430 as meeting the qualifications set out by ORS 656.407.

(26) "State Accident Insurance Fund Corporation" and "corporation" mean the State Accident Insurance Fund Corporation created under ORS 656.752.

(27) "Subject employer" means an employer who is subject to this chapter as provided by ORS 656.023.

(28) "Subject worker" means a worker who is subject to this chapter as provided by ORS 656.027.

(29) "Wages" means the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the accident, including reasonable value of board, rent, housing, lodging or similar advantage received from the employer, and includes the amount of tips required to be reported by the employer pursuant to section 6053 of the Internal Revenue Code of 1954, as amended, and the regulations promulgated pursuant thereto, or the amount of actual tips reported, whichever amount is greater. The State Accident Insurance Fund Corporation may establish assumed minimum and maximum wages, in conformity with recognized insurance principles, at which any worker shall be carried upon the payroll of the employer for the purpose of determining the premium of the employer.

(30) "Worker" means any person, including a minor whether lawfully or unlawfully employed, who engages to furnish services for a remuneration, subject to the direction and control of an employer and includes salaried, elected and appointed officials of the state, state agencies, counties, cities, school districts and other public corporations, but does not include any person whose services are performed as an inmate or ward of a state institution or as part of the eligibility requirements for a general or public assistance grant. For the purpose of determining entitlement to temporary disability benefits or permanent total disability benefits under this chapter, "worker" does not include a person who has withdrawn from the workforce during the period for which such benefits are sought.

(31) "Independent contractor" has the meaning for that term provided in ORS 670.600.

SECTION 54. ORS 656.204 is amended to read:

656.204. If death results from the accidental injury, payments shall be made as follows:

(1)(a) The cost of final disposition of the body and funeral expenses, including but not limited to transportation of the body, shall be paid, not to exceed 20 times the average weekly wage in any case.

(b) The insurer or self-insured employer shall pay bills submitted for disposition and funeral expenses up to the benefit limit established in paragraph (a) of this subsection. If any part of the benefit remains unpaid 60 days after claim acceptance, the insurer or self-insured employer shall pay the unpaid amount to the estate of the worker.

(2)(a) If the worker is survived by a spouse, monthly benefits shall be paid in an amount equal to 4.35 times 66-2/3 percent of the average weekly wage to the surviving spouse until remarriage. The payment shall cease at the end of the month in which the remarriage occurs.

(b) If the worker is survived by a spouse, monthly benefits also shall be paid in an amount equal to 4.35 times 10 percent of the average weekly wage for each child of the deceased who is substantially dependent on the spouse for support, until such child becomes 18 years of age.

(c) If the worker is survived by a spouse, monthly benefits also shall be paid in an amount equal to 4.35 times 25 percent of the average weekly wage for each child of the deceased who is not substantially dependent on the spouse for support, until such child becomes 18 years of age.

(d) If a surviving spouse receiving monthly payments dies, leaving a child who is entitled to compensation on account of the death of the worker, a monthly benefit equal to 4.35 times 25 percent of the average weekly wage shall be paid to each such child until the child becomes 18 years of age or the child's entitlement to benefits under subsection (8) of this section ceases, whichever is later.

(e) If a child who has become 18 years of age is a full-time high school student, benefits shall be paid as provided in subsection (8) of this section.

(f) In no event shall the total monthly benefits provided for in this subsection exceed 4.35 times 133-1/3 percent of the average weekly wage. If the sum of the individual benefits exceeds this maximum, the benefit for each child will be reduced proportionally.

(3)(a) Upon remarriage, a surviving spouse shall be paid 36 times the monthly benefit in a lump sum as final payment of the claim, but the monthly payments for each child shall continue as before.

(b) If, after the date of the subject worker's death, the surviving spouse cohabits with another person for an aggregate period of more than one year and a child has resulted from the relationship, the surviving spouse shall be paid 36 times the monthly benefit in a lump sum as final payment of the claim, but the monthly payment for any child who is entitled to compensation on account of the death of the worker shall continue as before.

(4)(a) If the worker [*leaves neither wife nor husband,*] **does not leave a spouse** but **leaves** a child under 18 years of age, a monthly benefit equal to 4.35 times 25 percent of the average weekly wage shall be paid to each such child until the child becomes 18 years of age.

(b) If a child who has become 18 years of age is a full-time high school student, benefits shall be paid as provided in subsection (8) of this section.

(c) In no event shall the total benefits provided for in this subsection exceed 4.35 times 133-1/3 percent of the average weekly wage. If the sum of the individual benefits exceeds this maximum, the benefit for each child will be reduced proportionally.

(5)(a) If the worker leaves a dependent other than a surviving spouse or a child, a monthly payment shall be made to each dependent equal to 50 percent of the average monthly support actually received by such dependent from the worker during the 12 months next preceding the occurrence of the accidental injury. If a dependent is under the age of 18 years at the time of the accidental injury, the payment to the dependent shall cease when such dependent becomes 18 years of age. The payment to any dependent shall cease under the same circumstances that would have terminated the dependency had the injury not happened.

(b) If the dependent who has become 18 years of age is a full-time high school student, benefits shall be paid as provided in subsection (8) of this section.

(c) In no event shall the total benefits provided for in this subsection exceed 4.35 times 10 percent of the average weekly wage. If the sum of the individual benefits exceeds this maximum, the benefit for each dependent will be reduced proportionally.

(6) If a child is an invalid at the time the child otherwise becomes ineligible for benefits under this section, the payment to the child shall continue while the child remains an invalid. If a person is entitled to payment because the person is an invalid, payment shall terminate when the person ceases to be an invalid.

(7) If, at the time of the death of a worker, the child of the worker or dependent has become 17 years of age but is under 18 years of age, the child or dependent shall receive the payment provided in this section for a period of one year from the date of the death. However, if after such period the child is a full-time high school student, benefits shall be paid as provided in subsection (8) of this section.

(8)(a) Benefits under this section which are to be paid as provided in this subsection shall be paid for the child or dependent until the child or dependent becomes 19 years of age. If, however, the child or dependent is attending higher education or begins attending higher education within six months of the date the child or dependent leaves high school, benefits shall be paid until the child or dependent becomes 23 years of age, ceases attending higher education or graduates from an approved institute or program, whichever is earlier.

(b) If a child or dependent who is eligible for benefits under this subsection has no surviving parent, the child or dependent shall receive 4.35 times 66-2/3 percent of the average weekly wage until the child or dependent becomes 23 years of age, ceases attending higher education or graduates from an approved institute or program, whichever is earlier.

(c) As used in this subsection, "attending higher education" means regularly attending community college, college or university, or regularly attending a course of vocational or technical training designed to prepare the participant for gainful employment. A child or dependent enrolled in an educational course load of less than one-half of that determined by the educational facility to constitute "full-time" enrollment is not "attending higher education."

(9) As used in this section, "average weekly wage" has the meaning for that term provided in ORS 656.211.

SECTION 55. ORS 656.226 is amended to read:

656.226. In case [*an unmarried man and an unmarried woman*] **two unmarried individuals** have cohabited in this state [*as husband and wife*] **as spouses who are married to each other** for over one year prior to the date of an accidental injury received by one or the other as a subject worker, and children are living as a result of that relation, the surviving cohabitant and the children are entitled to compensation under this chapter the same as if the [*man and woman*] **individuals** had been legally married.

SECTION 56. ORS 659A.309 is amended to read:

659A.309. (1) Except as provided in subsection (2) of this section, it is an unlawful employment practice for an employer solely because another member of an individual's family works or has worked for that employer to:

- (a) Refuse to hire or employ an individual;
- (b) Bar or discharge from employment an individual; or
- (c) Discriminate against an individual in compensation or in terms, conditions or privileges of employment.

(2) An employer is not required to hire or employ and is not prohibited from barring or discharging an individual if such action:

(a) Would constitute a violation of any law of this state or of the United States, or any rule promulgated pursuant thereto, with which the employer is required to comply;

(b) Would constitute a violation of the conditions of eligibility for receipt by the employer of financial assistance from the government of this state or the United States;

(c) Would place the individual in a position of exercising supervisory, appointment or grievance adjustment authority over a member of the individual's family or in a position of being subject to such authority which a member of the individual's family exercises; or

(d) Would cause the employer to disregard a bona fide occupational requirement reasonably necessary to the normal operation of the employer's business.

(3) As used in this section, "member of an individual's family" means the [*wife, husband*] **spouse in a marriage**, son, daughter, [*mother, father,*] **parent**, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, [*mother-in-law, father-in-law,*] **parent-in-law**, aunt, uncle, niece, nephew, stepparent or stepchild of the individual.

SECTION 57. ORS 677.365 is amended to read:

677.365. (1) Artificial insemination shall not be performed upon a woman without her prior written request and consent and, if she is married, the prior written request and consent of her [*husband*] **spouse**.

(2) Whenever a child is born who may have been conceived by the use of semen of a donor who is not the woman's [*husband*] **spouse**, a copy of the request and consent required under subsection (1) of this section shall be filed by the physician who performs the artificial insemination with the State Registrar of the Center for Health Statistics. The state registrar shall prescribe the form of reporting.

(3) The information filed under subsection (2) of this section shall be sealed by the state registrar and may be opened only upon an order of a court of competent jurisdiction.

(4) If the physician who performs the artificial insemination does not deliver the child conceived as a result of the use of semen of a donor who is not the woman's [*husband*] **spouse**, it is the duty of the woman and the [*husband*] **spouse** who consented pursuant to subsection (1) of this section to give that physician notice of the child's birth. The physician who performs the artificial insemination shall be relieved of all liability for noncompliance with subsection (2) of this section if the non-compliance results from lack of notice to the physician about the birth.

SECTION 58. ORS 726.990 is amended to read:

726.990. (1) Violation, or participation in the violation, of any provision of this chapter by any pawnbroker or any agent, member, officer or employee thereof, or any other person is a Class B misdemeanor.

(2) Upon conviction under subsection (1) of this section, no license shall be granted to such person, nor to the [*husband or wife*] **spouse in a marriage** of such person, nor to any partnership, association or corporation of which the person is an agent or member, until two years after the date of the conviction.

SECTION 59. ORS 742.504, as amended by section 76, chapter 45, Oregon Laws 2014, is amended to read:

742.504. Every policy required to provide the coverage specified in ORS 742.502 shall provide uninsured motorist coverage that in each instance is no less favorable in any respect to the insured or the beneficiary than if the following provisions were set forth in the policy. However, nothing contained in this section requires the insurer to reproduce in the policy the particular language of any of the following provisions:

(1)(a) Notwithstanding ORS 30.260 to 30.300, the insurer will pay all sums that the insured, the heirs or the legal representative of the insured is legally entitled to recover as general and special damages from the owner or operator of an uninsured vehicle because of bodily injury sustained by the insured caused by accident and arising out of the ownership, maintenance or use of the uninsured vehicle. Determination as to whether the insured, the insured's heirs or the insured's legal representative is legally entitled to recover such damages, and if so, the amount thereof, shall be made by agreement between the insured and the insurer, or, in the event of disagreement, may be determined by arbitration as provided in subsection (10) of this section.

(b) No judgment against any person or organization alleged to be legally responsible for bodily injury, except for proceedings instituted against the insurer as provided in this policy, shall be

conclusive, as between the insured and the insurer, on the issues of liability of the person or organization or of the amount of damages to which the insured is legally entitled.

(2) As used in this policy:

(a) "Bodily injury" means bodily injury, sickness or disease, including death resulting therefrom.

(b) "Hit-and-run vehicle" means a vehicle that causes bodily injury to an insured arising out of physical contact of the vehicle with the insured or with a vehicle the insured is occupying at the time of the accident, provided:

(A) The identity of either the operator or the owner of the hit-and-run vehicle cannot be ascertained;

(B) The insured or someone on behalf of the insured reported the accident within 72 hours to a police, peace or judicial officer, to the Department of Transportation or to the equivalent department in the state where the accident occurred, and filed with the insurer within 30 days thereafter a statement under oath that the insured or the legal representative of the insured has a cause or causes of action arising out of the accident for damages against a person or persons whose identities are unascertainable, and setting forth the facts in support thereof; and

(C) At the insurer's request, the insured or the legal representative of the insured makes available for inspection the vehicle the insured was occupying at the time of the accident.

(c) "Insured," when unqualified and when applied to uninsured motorist coverage, means:

(A) The named insured as stated in the policy and any person designated as named insured in the schedule and, while residents of the same household, the spouse of any named insured and relatives of either, provided that neither the relative nor the spouse is the owner of a vehicle not described in the policy and that, if the named insured as stated in the policy is other than an individual or [*husband and wife*] **spouses in a marriage** who are residents of the same household, the named insured shall be only a person so designated in the schedule;

(B) Any child residing in the household of the named insured if the insured has performed the duties of a parent to the child by rearing the child as the insured's own although the child is not related to the insured by blood, marriage or adoption; and

(C) Any other person while occupying an insured vehicle, provided the actual use thereof is with the permission of the named insured.

(d) "Insured vehicle," except as provided in paragraph (e) of this provision, means:

(A) The vehicle described in the policy or a newly acquired or substitute vehicle, as each of those terms is defined in the public liability coverage of the policy, insured under the public liability provisions of the policy; or

(B) A nonowned vehicle operated by the named insured or spouse if a resident of the same household, provided that the actual use thereof is with the permission of the owner of the vehicle and the vehicle is not owned by nor furnished for the regular or frequent use of the insured or any member of the same household.

(e) "Insured vehicle" does not include a trailer of any type unless the trailer is a described vehicle in the policy.

(f) "Occupying" means in or upon or entering into or alighting from.

(g) "Phantom vehicle" means a vehicle that causes bodily injury to an insured arising out of a motor vehicle accident that is caused by a vehicle that has no physical contact with the insured or the vehicle the insured is occupying at the time of the accident, provided:

(A) The identity of either the operator or the owner of the phantom vehicle cannot be ascertained;

(B) The facts of the accident can be corroborated by competent evidence other than the testimony of the insured or any person having an uninsured motorist claim resulting from the accident; and

(C) The insured or someone on behalf of the insured reported the accident within 72 hours to a police, peace or judicial officer, to the Department of Transportation or to the equivalent department in the state where the accident occurred, and filed with the insurer within 30 days thereafter a statement under oath that the insured or the legal representative of the insured has a cause or

causes of action arising out of the accident for damages against a person or persons whose identities are unascertainable, and setting forth the facts in support thereof.

(h) "State" includes the District of Columbia, a territory or possession of the United States and a province of Canada.

(i) "Stolen vehicle" means an insured vehicle that causes bodily injury to the insured arising out of a motor vehicle accident if:

(A) The vehicle is operated without the consent of the insured;

(B) The operator of the vehicle does not have collectible motor vehicle bodily injury liability insurance;

(C) The insured or someone on behalf of the insured reported the accident within 72 hours to a police, peace or judicial officer or to the equivalent department in the state where the accident occurred; and

(D) The insured or someone on behalf of the insured cooperates with the appropriate law enforcement agency in the prosecution of the theft of the vehicle.

(j) "Sums that the insured, the heirs or the legal representative of the insured is legally entitled to recover as general and special damages from the owner or operator of an uninsured vehicle" means the amount of damages that:

(A) A claimant could have recovered in a civil action from the owner or operator at the time of the injury after determination of fault or comparative fault and resolution of any applicable defenses;

(B) Are calculated without regard to the tort claims limitations of ORS 30.260 to 30.300; and

(C) Are no larger than benefits payable under the terms of the policy as provided in subsection (7) of this section.

(k) "Uninsured vehicle," except as provided in paragraph (L) of this provision, means:

(A) A vehicle with respect to the ownership, maintenance or use of which there is no collectible motor vehicle bodily injury liability insurance, in at least the amounts or limits prescribed for bodily injury or death under ORS 806.070 applicable at the time of the accident with respect to any person or organization legally responsible for the use of the vehicle, or with respect to which there is collectible bodily injury liability insurance applicable at the time of the accident but the insurance company writing the insurance denies coverage or the company writing the insurance becomes voluntarily or involuntarily declared bankrupt or for which a receiver is appointed or becomes insolvent. It shall be a disputable presumption that a vehicle is uninsured in the event the insured and the insurer, after reasonable efforts, fail to discover within 90 days from the date of the accident, the existence of a valid and collectible motor vehicle bodily injury liability insurance applicable at the time of the accident.

(B) A hit-and-run vehicle.

(C) A phantom vehicle.

(D) A stolen vehicle.

(E) A vehicle that is owned or operated by a self-insurer:

(i) That is not in compliance with ORS 806.130 (1)(c); or

(ii) That provides recovery to an insured in an amount that is less than the limits for uninsured motorist coverage of the insured.

(L) "Uninsured vehicle" does not include:

(A) An insured vehicle, unless the vehicle is a stolen vehicle;

(B) Except as provided in paragraph (k)(E) of this subsection, a vehicle that is owned or operated by a self-insurer within the meaning of any motor vehicle financial responsibility law, motor carrier law or any similar law;

(C) A vehicle that is owned by the United States of America, Canada, a state, a political subdivision of any such government or an agency of any such government;

(D) A land motor vehicle or trailer, if operated on rails or crawler-treads or while located for use as a residence or premises and not as a vehicle;

(E) A farm-type tractor or equipment designed for use principally off public roads, except while actually upon public roads; or

(F) A vehicle owned by or furnished for the regular or frequent use of the insured or any member of the household of the insured.

(m) "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, but does not include devices moved by human power or used exclusively upon stationary rails or tracks.

(3) This coverage applies only to accidents that occur on and after the effective date of the policy, during the policy period and within the United States of America, its territories or possessions, or Canada.

(4)(a) This coverage does not apply to bodily injury of an insured with respect to which the insured or the legal representative of the insured shall, without the written consent of the insurer, make any settlement with or prosecute to judgment any action against any person or organization who may be legally liable therefor.

(b) This coverage does not apply to bodily injury to an insured while occupying a vehicle, other than an insured vehicle, owned by, or furnished for the regular use of, the named insured or any relative resident in the same household, or through being struck by the vehicle.

(c) This coverage does not apply so as to inure directly or indirectly to the benefit of any workers' compensation carrier, any person or organization qualifying as a self-insurer under any workers' compensation or disability benefits law or any similar law or the State Accident Insurance Fund Corporation.

(d) This coverage does not apply with respect to underinsured motorist benefits unless:

(A) The limits of liability under any bodily injury liability insurance applicable at the time of the accident regarding the injured person have been exhausted by payment of judgments or settlements to the injured person or other injured persons;

(B) The described limits have been offered in settlement, the insurer has refused consent under paragraph (a) of this subsection and the insured protects the insurer's right of subrogation to the claim against the tortfeasor;

(C) The insured gives credit to the insurer for the unrealized portion of the described liability limits as if the full limits had been received if less than the described limits have been offered in settlement, and the insurer has consented under paragraph (a) of this subsection; or

(D) The insured gives credit to the insurer for the unrealized portion of the described liability limits as if the full limits had been received if less than the described limits have been offered in settlement and, if the insurer has refused consent under paragraph (a) of this subsection, the insured protects the insurer's right of subrogation to the claim against the tortfeasor.

(e) When seeking consent under paragraph (a) or (d) of this subsection, the insured shall allow the insurer a reasonable time in which to collect and evaluate information related to consent to the proposed offer of settlement. The insured shall provide promptly to the insurer any information that is reasonably requested by the insurer and that is within the custody and control of the insured. Consent will be presumed to be given if the insurer does not respond within a reasonable time. For purposes of this paragraph, a "reasonable time" is no more than 30 days from the insurer's receipt of a written request for consent, unless the insured and the insurer agree otherwise.

(5)(a) As soon as practicable, the insured or other person making claim shall give to the insurer written proof of claim, under oath if required, including full particulars of the nature and extent of the injuries, treatment and other details entering into the determination of the amount payable hereunder. The insured and every other person making claim hereunder shall submit to examinations under oath by any person named by the insurer and subscribe the same, as often as may reasonably be required. Proof of claim shall be made upon forms furnished by the insurer unless the insurer fails to furnish the forms within 15 days after receiving notice of claim.

(b) Upon reasonable request of and at the expense of the insurer, the injured person shall submit to physical examinations by physicians, physician assistants or nurse practitioners selected by the

insurer and shall, upon each request from the insurer, execute authorization to enable the insurer to obtain medical reports and copies of records.

(6) If, before the insurer makes payment of loss hereunder, the insured or the legal representative of the insured institutes any legal action for bodily injury against any person or organization legally responsible for the use of a vehicle involved in the accident, a copy of the summons and complaint or other process served in connection with the legal action shall be forwarded immediately to the insurer by the insured or the legal representative of the insured.

(7)(a) The limit of liability stated in the declarations as applicable to "each person" is the limit of the insurer's liability for all damages because of bodily injury sustained by one person as the result of any one accident and, subject to the above provision respecting each person, the limit of liability stated in the declarations as applicable to "each accident" is the total limit of the company's liability for all damages because of bodily injury sustained by two or more persons as the result of any one accident.

(b) Any payment made under this coverage to or for an insured shall be applied in reduction of any amount that the insured may be entitled to recover from any person who is an insured under the bodily injury liability coverage of this policy.

(c) Any amount payable under the terms of this coverage because of bodily injury sustained in an accident by a person who is an insured under this coverage shall be reduced by:

(A) All sums paid on account of the bodily injury by or on behalf of the owner or operator of the uninsured vehicle and by or on behalf of any other person or organization jointly or severally liable together with the owner or operator for the bodily injury, including all sums paid under the bodily injury liability coverage of the policy; and

(B) The amount paid and the present value of all amounts payable on account of the bodily injury under any workers' compensation law, disability benefits law or any similar law.

(d) Any amount payable under the terms of this coverage because of bodily injury sustained in an accident by a person who is an insured under this coverage shall be reduced by the credit given to the insurer pursuant to subsection (4)(d)(C) or (D) of this section.

(e) The amount payable under the terms of this coverage may not be reduced by the amount of liability proceeds offered, described in subsection (4)(d)(B) or (D) of this section, that has not been paid to the injured person. If liability proceeds have been offered and not paid, the amount payable under the terms of the coverage shall include the amount of liability limits offered but not accepted due to the insurer's refusal to consent. The insured shall cooperate so as to permit the insurer to proceed by subrogation or assignment to prosecute the claim against the uninsured motorist.

(8) No action shall lie against the insurer unless, as a condition precedent thereto, the insured or the legal representative of the insured has fully complied with all the terms of this policy.

(9)(a) With respect to bodily injury to an insured:

(A) While occupying a vehicle owned by a named insured under this coverage, the insurance under this coverage is primary.

(B) While occupying a vehicle not owned by a named insured under this coverage, the insurance under this coverage shall apply only as excess insurance over any primary insurance available to the occupant that is similar to this coverage, and this excess insurance shall then apply only in the amount by which the applicable limit of liability of this excess coverage exceeds the sum of the applicable limits of liability of all primary insurance available to the occupant.

(b) If an insured is an insured under other primary or excess insurance available to the insured that is similar to this coverage, then the insured's damages are deemed not to exceed the higher of the applicable limits of liability of this insurance or the additional primary or excess insurance available to the insured, and the insurer is not liable under this coverage for a greater proportion of the insured's damages than the applicable limit of liability of this coverage bears to the sum of the applicable limits of liability of this insurance and other primary or excess insurance available to the insured.

(c) With respect to bodily injury to an insured while occupying any motor vehicle used as a public or livery conveyance, the insurance under this coverage shall apply only as excess insurance

over any other insurance available to the insured that is similar to this coverage, and this insurance shall then apply only in the amount by which the applicable limit of liability of this coverage exceeds the sum of the applicable limits of liability of all other insurance.

(10) If any person making claim hereunder and the insurer do not agree that the person is legally entitled to recover damages from the owner or operator of an uninsured vehicle because of bodily injury to the insured, or do not agree as to the amount of payment that may be owing under this coverage, then, in the event the insured and the insurer elect by mutual agreement at the time of the dispute to settle the matter by arbitration, the arbitration shall take place as described in ORS 742.505. Any judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof, provided, however, that the costs to the insured of the arbitration proceeding do not exceed \$100 and that all other costs of arbitration are borne by the insurer. "Costs" as used in this provision does not include attorney fees or expenses incurred in the production of evidence or witnesses or the making of transcripts of the arbitration proceedings. The person and the insurer each agree to consider themselves bound and to be bound by any award made by the arbitrators pursuant to this coverage in the event of such election. At the election of the insured, the arbitration shall be held:

(a) In the county and state of residence of the insured;

(b) In the county and state where the insured's cause of action against the uninsured motorist arose; or

(c) At any other place mutually agreed upon by the insured and the insurer.

(11) In the event of payment to any person under this coverage:

(a) The insurer shall be entitled to the extent of the payment to the proceeds of any settlement or judgment that may result from the exercise of any rights of recovery of the person against any uninsured motorist legally responsible for the bodily injury because of which payment is made;

(b) The person shall hold in trust for the benefit of the insurer all rights of recovery that the person shall have against such other uninsured person or organization because of the damages that are the subject of claim made under this coverage, but only to the extent that the claim is made or paid herein;

(c) If the insured is injured by the joint or concurrent act or acts of two or more persons, one or more of whom is uninsured, the insured shall have the election to receive from the insurer any payment to which the insured would be entitled under this coverage by reason of the act or acts of the uninsured motorist, or the insured may, with the written consent of the insurer, proceed with legal action against any or all persons claimed to be liable to the insured for the injuries. If the insured elects to receive payment from the insurer under this coverage, then the insured shall hold in trust for the benefit of the insurer all rights of recovery the insured shall have against any other person, firm or organization because of the damages that are the subject of claim made under this coverage, but only to the extent of the actual payment made by the insurer;

(d) The person shall do whatever is proper to secure and shall do nothing after loss to prejudice such rights;

(e) If requested in writing by the insurer, the person shall take, through any representative not in conflict in interest with the person, designated by the insurer, such action as may be necessary or appropriate to recover payment as damages from such other uninsured person or organization, such action to be taken in the name of the person, but only to the extent of the payment made hereunder. In the event of a recovery, the insurer shall be reimbursed out of the recovery for expenses, costs and attorney fees incurred by the insurer in connection therewith; and

(f) The person shall execute and deliver to the insurer any instruments and papers as may be appropriate to secure the rights and obligations of the person and the insurer established by this provision.

(12)(a) The parties to this coverage agree that no cause of action shall accrue to the insured under this coverage unless within two years from the date of the accident:

(A) Agreement as to the amount due under the policy has been concluded;

(B) The insured or the insurer has formally instituted arbitration proceedings;

(C) The insured has filed an action against the insurer; or

(D) Suit for bodily injury has been filed against the uninsured motorist and, within two years from the date of settlement or final judgment against the uninsured motorist, the insured has formally instituted arbitration proceedings or filed an action against the insurer.

(b) For purposes of this subsection:

(A) "Date of settlement" means the date on which a written settlement agreement or release is signed by an insured or, in the absence of these documents, the date on which the insured or the attorney for the insured receives payment of any sum required by the settlement agreement. An advance payment as defined in ORS 31.550 shall not be deemed a payment of a settlement for purposes of the time limitation in this subsection.

(B) "Final judgment" means a judgment that has become final by lapse of time for appeal or by entry in an appellate court of an appellate judgment.

SECTION 60. ORS 743.027 is amended to read:

743.027. A life or health insurance policy upon an individual, except a policy of group life insurance or of group or blanket health insurance, may not be made or effectuated unless at the time of the making of the policy the individual insured, being of competent legal capacity to contract, applies therefor or has consented thereto in writing, except in the following cases:

(1) A spouse may effectuate such insurance upon the other spouse.

(2) Any person having an insurable interest in the life of a minor, or any person upon whom a minor is dependent for support and maintenance, may effectuate insurance upon the life of or pertaining to such minor.

(3) Family policies may be issued insuring any two or more members of a family on an application signed by either parent, a stepparent[, *or by a husband or wife*] **or a spouse in a marriage.**

(4) A person may effectuate insurance that provides for the funeral expenses of an adult who is dependent upon the person for support and maintenance.

(5) A person may effectuate insurance that provides for the funeral expenses of an adult if the person:

(a) Is closely related to the adult by blood or by law or has a substantial interest in the adult engendered by love and affection; and

(b) Has a lawful and substantial interest in having the life, health and bodily safety of the adult continue.

SECTION 61. ORS 743A.084 is amended to read:

743A.084. Each policy of health insurance shall provide:

(1) The same payments for costs of maternity to unmarried women that it provides to married women, including the [*wives*] **spouses in marriages** of insured persons choosing family coverage; and

(2) The same coverage for the child of an unmarried woman that the child of an insured married person choosing family coverage receives.

Passed by House May 29, 2015

Repassed by House June 22, 2015

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 16, 2015

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2015

Approved:

.....M,....., 2015

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2015

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Jeanne P. Atkins, Secretary of State