

D R A F T

SUMMARY

Establishes Oregon Hemp Commission.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to hemp; and prescribing an effective date.

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

SECTION 1. As used in sections 1 to 36 of this 2020 Act:

(1) “Fiscal year”:

(a) Except as provided in paragraph (b) of this subsection, means the 12-month period commencing on July 1 and ending on June 30.

(b) If adopted by rule by the Oregon Hemp Commission, means the 12-month period commencing on January 1 and ending on December 31.

(2) “Hemp” means the plant species Cannabis Sativa that:

(a) Has a tetrahydrocannabinol concentration that complies with the concentration specified by the State Department of Agriculture by rule; and

(b) Has the meaning as defined by the department by rule.

(3) “Processor” has the meaning given the term “handler” in ORS 571.269.

(4) “Producer” has the meaning given the term “grower” in ORS 571.269.

SECTION 2. (1) It is hereby declared, as a matter of legislative determination, that sections 1 to 36 of this 2020 Act are enacted in the

1 exercise of the power of the state for the purposes of protecting and
2 furthering the public health and welfare. It is further declared that the
3 hemp industry of this state is affected with a public interest in that,
4 among other things:

5 (a) The production, processing, manufacture and distribution of
6 hemp and hemp products constitute a paramount industry of this state
7 that not only provides substantial and required revenues for the state
8 and its political subdivisions, and employment and a means of
9 livelihood for many thousands of its population, but also provides es-
10 sential foods, supplements and other agricultural, commercial and in-
11 dustrial products that are vital to the public health and welfare.

12 (b) The stabilization, maintenance and expansion of the hemp in-
13 dustry of Oregon, and of the state, national and international markets
14 for hemp products, are necessary to assure the consuming public an
15 adequate supply of foods and supplements that are indispensable in a
16 proper human diet, as well as other agricultural, commercial and in-
17 dustrial products to protect, for the state and its political subdivisions,
18 a necessary source of tax revenue, to provide and maintain an ade-
19 quate standard of living for a great segment of the population of this
20 state, to maintain proper wage scales for those engaged in the hemp
21 industry and to maintain existing employment.

22 (c) The essential nature of hemp and hemp products is such as to
23 require that the public be made aware of the essential nature of hemp
24 and hemp products, and be protected against misrepresentation and
25 deception, by the dissemination of accurate and scientific information
26 about various hemp and hemp products, their various classifications,
27 the food values and industrial and therapeutic uses of hemp and hemp
28 products, the methods, care and precautions necessary to their proper
29 production, processing, manufacture and distribution, the necessary
30 costs and expenses of the production, processing, manufacture and
31 distribution of hemp and hemp products and the necessity and desir-

1 ability on the part of the public of using and consuming hemp and
2 hemp products of the highest standards of quality.

3 (2) The purposes of sections 1 to 36 of this 2020 Act are:

4 (a) To enable the hemp industry, with the aid of the state, to de-
5 velop, maintain and expand the state, national and international
6 markets for hemp and hemp products produced, processed or manu-
7 factured in this state, and the use and consumption of hemp and hemp
8 products in the state, national and international markets.

9 (b) In aid, but not in limitation, of the purposes described in para-
10 graph (a) of this subsection, to authorize and enable the Oregon Hemp
11 Commission to formulate and effectuate, directly or in cooperation
12 with other agencies and instrumentalities specified in sections 1 to 36
13 of this 2020 Act, sales stimulation and consumer or other educational
14 programs designed to increase the use and consumption of hemp and
15 hemp products and to conduct research, education and information
16 programs related to the hemp industry.

17 SECTION 3. (1) The State Department of Agriculture shall:

18 (a) Monitor the methods and practices used or proposed by the
19 Oregon Hemp Commission in carrying out the goals and meeting the
20 needs disclosed by the budget of the commission;

21 (b) Promote cooperation among the Oregon Hemp Commission, the
22 commodity commissions, the Oregon Beef Council and the Oregon
23 Wheat Commission, and assist in the interchange of information and
24 experiences among those entities;

25 (c) Carry out the assigned organizational procedures under sections
26 1 to 36 of this 2020 Act, including the appointment and removal of
27 members of the Oregon Hemp Commission;

28 (d) Review budgets submitted to the Director of Agriculture by the
29 commission; and

30 (e) Adopt rules to carry out the provisions of sections 1 to 36 of this
31 2020 Act.

1 **(2) The department shall review, and may approve or disapprove,**
2 **plans and projects recommended by the Oregon Hemp Commission for**
3 **promotion, advertising and research and for the dissemination of**
4 **consumer and hemp industry information. In reviewing a plan or**
5 **project under this subsection, the department shall consider whether**
6 **the plan or project is:**

7 **(a) Factual;**

8 **(b) Not disparaging to other agricultural commodities; and**

9 **(c) Consistent with the purposes of sections 1 to 36 of this 2020 Act.**

10 **SECTION 4. (1) In the same manner as that provided in ORS 576.206,**
11 **the Director of Agriculture shall appoint five temporary members to**
12 **the Oregon Hemp Commission. In appointing the temporary members,**
13 **the director shall consider any recommendations by commodity com-**
14 **missions, producers and producer associations. All temporary mem-**
15 **bers of the commission must be citizens of the United States and**
16 **residents of this state.**

17 **(2)(a) A majority of the temporary members must be producers.**

18 **(b) A producer member appointed under subsection (1) of this sec-**
19 **tion must have produced hemp under a license or registration issued**
20 **by the State Department of Agriculture for at least two years prior to**
21 **the member's appointment.**

22 **(c) At least one member must be a processor. A processor member**
23 **appointed under this subsection must have processed hemp under a**
24 **license or registration issued by the department for at least two years**
25 **prior to the member's appointment.**

26 **(d) At least one member must be a member of the public who is not**
27 **associated with the production or processing of hemp.**

28 **(3) The temporary members shall adopt rules for the commission**
29 **in accordance with ORS chapter 183, including but not limited to rules:**

30 **(a) Establishing the number and geographic representation of the**
31 **commissioners;**

1 (b) Providing for the removal of commissioners;

2 (c) Setting a stipend and per diem for the commissioners; and

3 (d) Relating to the assessment rate and procedures described in
4 sections 1 to 36 of this 2020 Act.

5 (4) The terms of temporary members expire on the date of the first
6 meeting of the commissioners appointed under subsection (6) of this
7 section, but not later than one year after the effective date of this 2020
8 Act.

9 (5) A qualified temporary member is eligible for appointment to a
10 term on the commission under subsection (6) of this section.

11 (6) Except as provided in subsection (11) of this section, the director
12 shall appoint the commissioners to the commission in accordance with
13 rules adopted under subsection (3) of this section. In appointing the
14 commissioners, the director shall consider any recommendations by
15 commodity commissions, producers and producer associations. The
16 commissioners appointed under this subsection may be the same as
17 the temporary members appointed under subsection (1) of this section.
18 All commissioners must be citizens of the United States and residents
19 of this state.

20 (7)(a) All commissioners other than processors and the members
21 of the public must be producers.

22 (b) A majority of the commissioners must be producers that have
23 produced hemp under a license or registration issued by the depart-
24 ment for at least two years prior to appointment to the commission.

25 (c) At least one commissioner must be a processor that has pro-
26 cessed hemp under a license or registration issued by the department
27 for at least two years prior to the commissioner's appointment.

28 (d) At least one commissioner must be a member of the public who
29 is not associated with the production or processing of hemp.

30 (8) The term of a commissioner appointed under subsection (6) of
31 this section is four years unless a shorter term is established by the

1 **commission by rule to provide for staggered terms. A commissioner**
2 **is eligible for reappointment unless otherwise provided by the com-**
3 **mission by rule. Before the expiration of a commissioner's term, the**
4 **director shall appoint a successor to assume office upon expiration of**
5 **the term. If there is a vacancy on the commission for any reason, in-**
6 **cluding a reason specified in section 6 or 7 of this 2020 Act, the director**
7 **shall appoint a person to the unexpired term.**

8 **(9) The commission shall select one member to serve as chair-**
9 **person, another member to serve as vice chairperson and another**
10 **member to serve as secretary-treasurer with the duties and powers**
11 **that the commission deems appropriate to those offices.**

12 **(10) A temporary member of the commission and a commissioner**
13 **are entitled to compensation and expenses in the manner and amounts**
14 **provided in ORS 292.495. Claims for compensation earned and expenses**
15 **incurred in performing the functions of the commission shall be paid**
16 **out of funds available to the commission.**

17 **(11) The commission may amend the rules adopted by the tempo-**
18 **rary members under subsection (3) of this section. A rule amendment**
19 **adopted under this subsection applies to commission appointments**
20 **made after the effective date of the rule amendment.**

21 **SECTION 5. The Director of Agriculture and the Dean of the Col-**
22 **lege of Agricultural Sciences of Oregon State University are ex officio**
23 **nonvoting members of the Oregon Hemp Commission.**

24 **SECTION 6. The Director of Agriculture shall immediately declare**
25 **the office of a member of the Oregon Hemp Commission who is a**
26 **producer or processor vacant if the director finds that:**

27 **(1) The member is no longer actively engaged in hemp production**
28 **or processing;**

29 **(2) The member has become a resident of another state; or**

30 **(3) The member is otherwise unable to perform the duties of the**
31 **office.**

1 **SECTION 7.** (1) The Director of Agriculture may remove a member
2 of the Oregon Hemp Commission for inefficiency, neglect of duty or
3 misconduct in office if the director provides:

4 (a) At least 10 days before the date of a public hearing on the issue
5 of removal of the member, service on the member of:

6 (A) A copy of the charges against the member; and

7 (B) Notice of the time and place of the public hearing on the issue
8 of removal; and

9 (b) A public hearing on the issue of removal of the member at
10 which the member must have the opportunity to be heard in person
11 or by counsel and to present evidence to answer the charges and ex-
12 plain the facts alleged against the member.

13 (2) In the case of removal, the director shall file with the office of
14 the Secretary of State a complete statement of all charges against the
15 member, and the findings on the charges, along with a record of the
16 entire removal proceedings.

17 **SECTION 8.** (1) The Oregon Hemp Commission may adopt rules to
18 establish the amount of payment that a member of the commission
19 receives under ORS 292.495 for each day, or portion of a day, during
20 which the member is engaged in the performance of official duties.
21 The amount must be at least the amount of payment that would oth-
22 erwise be provided under ORS 292.495.

23 (2) Members, officers and employees of the commission must re-
24 ceive their actual and necessary travel and other expenses incurred in
25 the performance of their official duties. Subject to any limitations
26 described under ORS 292.495 (2), the commission shall adopt rules
27 governing the incurring and paying of the expenses described in this
28 subsection.

29 **SECTION 9.** (1) The Oregon Hemp Commission shall establish a
30 meeting place anywhere in this state, but must consider in selecting
31 the location the convenience of the majority of those persons most

1 likely to have business with the commission or to be affected by the
2 acts of the commission.

3 (2) Notwithstanding subsection (1) of this section, the commission
4 may participate in meetings outside the state for the purposes of ad-
5 vancing the work of the commission.

6 (3) The commission may take action only at meetings held within
7 this state.

8 SECTION 10. The Oregon Hemp Commission may:

9 (1) Conduct scientific research to discover and develop the com-
10 mercial value of hemp and hemp products.

11 (2) Disseminate reliable information founded upon the research
12 conducted under sections 1 to 36 of this 2020 Act that shows the value
13 of hemp and hemp products for any purpose for which hemp and hemp
14 products may be found useful and profitable.

15 (3) Study federal and state legislation with respect to tariffs, duties,
16 reciprocal trade agreements, import quotas and other matters con-
17 cerning the effect of the legislation on the hemp industry, and repre-
18 sent and protect the interests of the hemp industry with respect to any
19 legislation, proposed legislation or executive action that may affect the
20 hemp industry.

21 (4) Act jointly and in cooperation with the federal government, or
22 any federal agency, in the administration of any program of the fed-
23 eral government or federal agency that the commission determines is
24 beneficial to the hemp industry in this state, and expend funds in
25 connection with the administration of a program described in this
26 subsection, provided that the program is compatible with the powers
27 conferred on the commission by sections 1 to 36 of this 2020 Act.

28 (5) Enter into contracts for advertising hemp and for developing
29 new markets through advertising.

30 (6) Develop plans or projects for promotion and advertising re-
31 search, consumer information and industry information, and create

1 **programs that will lead to the development of new markets, marketing**
2 **strategies, increased efficiency and activities to enhance the image of**
3 **the hemp industry.**

4 **(7) Appoint all subordinate officers and employees of the commis-**
5 **sion and establish their duties and compensation.**

6 **(8) Levy the assessments described in section 18 of this 2020 Act.**

7 **(9) Borrow money in amounts that do not exceed estimated reve-**
8 **nues from assessments for the year.**

9 **(10) Enter into contracts for carrying out the duties of the com-**
10 **mission, in addition to those duties described in subsection (5) of this**
11 **section.**

12 **(11) Subject to ORS 30.260 to 30.300, sue and be sued in the name**
13 **of the commission.**

14 **(12) Request that the Attorney General prosecute in the name of the**
15 **State of Oregon suits and actions for the collection of assessments**
16 **levied by the commission.**

17 **(13) Participate in federal and state hearings or other proceedings**
18 **concerning regulation of the manufacture, distribution, sale or use of**
19 **pesticides as defined in ORS 634.006 or other chemicals that are of use**
20 **or potential use to producers. This subsection does not authorize the**
21 **commission to regulate the use of pesticides.**

22 **(14) To the extent consistent with the duties of the commission,**
23 **participate in and cooperate with local, state, national and interna-**
24 **tional private organizations or governmental agencies that engage in**
25 **work similar to that of the commission.**

26 **(15) Provide mechanisms for maintaining and expanding existing**
27 **markets and developing new domestic and international markets for**
28 **hemp, including but not limited to:**

29 **(a) Public relations programs;**

30 **(b) Media relations programs;**

31 **(c) Paid print, electronic and position advertising;**

1 (d) Point of sale promotion and coupon programs; and

2 (e) Activities that prevent, modify or eliminate trade barriers that
3 obstruct the free flow of hemp to market.

4 (16) Conduct and fund research, in addition to that described in
5 subsection (1) of this section, to:

6 (a) Enhance the commercial value of hemp and hemp products;

7 (b) Discover the benefits to public health, the environment or the
8 economy of consuming or otherwise using hemp;

9 (c) Develop better and more efficient production, harvesting, irri-
10 gation, processing, transportation, handling, marketing and uses of
11 hemp;

12 (d) Control or eradicate hazards to hemp, including but not limited
13 to hazards from animals, pests and plants;

14 (e) Develop viable alternatives for the rotation of crops;

15 (f) Determine new or potential demand for hemp and develop ap-
16 propriate market development strategies for capturing that demand;
17 and

18 (g) Measure the effectiveness of marketing, advertising or promo-
19 tional programs.

20 (17) Gather, publicize and disseminate information that shows the
21 importance of the consumption and other uses of hemp to public
22 health, the environment, the economy and the proper nutrition of
23 children and adults.

24 (18) Further the purposes of this section by funding scholarships for
25 or providing financial assistance to persons or entities interested in
26 hemp.

27 (19) Adopt rules as necessary to carry out the duties, functions and
28 powers conferred on the commission by this section.

29 SECTION 11. (1)(a) The Oregon Hemp Commission may contract
30 with an independent contractor for the performance of any service,
31 except that the commission may not contract with an independent

1 contractor to perform discretionary functions of the commission.

2 (b) ORS 279.835 to 279.855 and ORS chapters 240, 279A, 279B and 279C
3 do not apply to the commission in obtaining services described in this
4 subsection, except that a contract for services described in this sub-
5 section may not take effect until the contract is approved by the State
6 Department of Agriculture under subsection (7) of this section.

7 (2)(a) The commission may rent space or acquire supplies and
8 equipment from any contractor as described in subsection (1) of this
9 section.

10 (b) ORS 276A.206, 279.835 to 279.855 and 283.085 to 283.092 and ORS
11 chapters 276, 278, 279A, 279B, 279C and 283 do not apply to rentals or
12 acquisitions described in this subsection.

13 (3) Except as provided in this section, a contractor described in
14 subsection (1) of this section shall be considered an independent con-
15 tractor and not an employee, eligible employee, public employee or
16 employee of the state for purposes of Oregon law, including ORS
17 chapters 236, 238, 238A, 240, 243, 291, 316 and 652.

18 (4) Nothing in this section precludes the state or the commission
19 from being considered the employer of the contractor described in
20 subsection (1) of this section for purposes of unemployment compen-
21 sation under ORS 670.600 and ORS chapter 657.

22 (5) A contractor described in subsection (1) of this section shall be
23 considered an independent contractor and not a worker for purposes
24 of ORS 670.600 and ORS chapter 656.

25 (6) A contractor described in subsection (1) of this section may not
26 be considered a public official, public officer, state officer or executive
27 official for purposes of Oregon law, including ORS 171.725 to 171.785
28 and ORS chapters 236, 244, 292, 295 and 297.

29 (7) The department shall review the contract described in sub-
30 section (1) of this section for the adequacy of the clauses pertaining
31 to statement of work, starting and ending dates, consideration, sub-

1 **contracts, funds authorized in the budget, amendments, termination,**
2 **compliance with applicable law, assignment and waiver, access to re-**
3 **ords, indemnity, ownership of work product, nondiscrimination, suc-**
4 **cessors in interest, attorney fees, tax certification or merger or any**
5 **other clause the department deems necessary.**

6 **(8) The Department of Justice shall review any contracts, agree-**
7 **ments and similar funding devices that meet or exceed the fund**
8 **threshold established by the department by rule.**

9 **(9) The Oregon Department of Administrative Services, in consul-**
10 **tation with the State Department of Agriculture, shall adopt rules**
11 **necessary for the screening and selection of independent contractors**
12 **under this section.**

13 **(10) Except as provided under subsection (9) of this section, the**
14 **State Department of Agriculture may adopt rules as necessary to carry**
15 **out this section.**

16 **SECTION 12. (1) The Oregon Hemp Commission shall:**

17 **(a) Adopt a budget, obtain budget approval and submit financial**
18 **statements in the same manner as a commodity commission acting**
19 **under ORS 576.416.**

20 **(b) Receive, deposit, invest, expend and budget moneys in the same**
21 **manner as a commodity commission acting under sections 26, 31, 32**
22 **and 33 of this 2020 Act.**

23 **(2) The commission may accept grants, donations or contributions**
24 **from any source and for expenditures for any purpose consistent with**
25 **the powers conferred on the commission.**

26 **SECTION 13. (1) Upon request by the Oregon Hemp Commission,**
27 **the Oregon Department of Administrative Services may:**

28 **(a) Purchase or otherwise provide for acquiring or furnishing sup-**
29 **plies, materials, equipment and services, other than personal services,**
30 **that the commission requires and for independent contractors to fur-**
31 **nish professional services to the commission.**

1 (b) Provide for printing and multiple duplication work for the
2 commission under ORS 282.010 to 282.050, except for printing and
3 binding that advertises or promotes hemp or hemp products.

4 (c) Provide for services to the commission for disposing of surplus,
5 obsolete or unused supplies, materials and equipment under ORS
6 279A.280.

7 (d) Provide for central telephone service, central mail service and
8 messenger services to the commission under ORS 283.140.

9 (e) Provide motor vehicles for use by members, officers and em-
10 ployees of the commission under ORS 283.305 to 283.350.

11 (2) The commission shall pay to the department an amount for
12 services performed by the department under subsection (1) of this
13 section that the department determines is adequate to reimburse the
14 department.

15 (3) Upon request by the commission, the department may design
16 and supervise the installation of an accounting system for the com-
17 mission. The commission shall pay to the department an amount for
18 services performed by the department under this subsection that the
19 department determines is adequate to reimburse the department.

20 SECTION 14. (1) The Oregon Hemp Commission may elect to pro-
21 vide services, facilities and materials to commodity commissions cre-
22 ated under ORS 576.051 to 576.455, the Oregon Wheat Commission, the
23 Oregon Beef Council and other state agencies and officers under ORS
24 283.110.

25 (2) Upon request by the Oregon Hemp Commission, any other entity
26 described in subsection (1) of this section may provide services, facili-
27 ties and materials to the commission under ORS 283.110.

28 SECTION 15. ORS 291.026, 291.201 to 291.222, 291.232 to 291.260, 291.322
29 to 291.334, 292.210 to 292.250, 293.260 to 293.280, 293.295 to 293.346 and
30 293.590 to 293.640 do not apply to the Oregon Hemp Commission or to
31 the administration and enforcement of sections 1 to 36 of this 2020 Act.

1 **SECTION 16.** (1) Wages or salaries of employees of the Oregon
2 Hemp Commission are not subject to personnel compensation plans for
3 state employees established by the Oregon Department of Adminis-
4 trative Services under ORS 240.235 to 240.250.

5 (2) The commission is not required to utilize office space provided
6 or obtained by the department as provided in ORS chapter 276.

7 (3) The State Department of Agriculture may charge and collect
8 from the commission an assessment or fee to reimburse the depart-
9 ment for supervisory or administrative functions the department is
10 required by law to perform for the commission. The department shall
11 establish the amount of the assessment or fee by rule.

12 **SECTION 17.** (1) As used in this section, “intellectual property”
13 means patents, copyrights, trademarks, inventions, discoveries, pro-
14 cesses, ideas and other similar property, whether or not they are pat-
15 entable or copyrightable.

16 (2)(a) The Oregon Hemp Commission may:

17 (A) Consistent with the purposes of the commission, develop intel-
18 lectual property that relates to hemp or assists in the implementation,
19 maintenance or development of commission programs.

20 (B) Take all necessary and proper actions, including but not limited
21 to entering into contracts and other agreements and owning, manag-
22 ing, disposing of or using the intellectual property.

23 (b) The commission shall adopt rules to govern the ownership,
24 management, disposal and use of intellectual property and other ac-
25 tivities of the commission relating to intellectual property.

26 (3) Moneys received by the commission as a result of the ownership,
27 management, disposal or use of intellectual property, or other activ-
28 ities of the commission relating to intellectual property, must be de-
29 posited into the account established by the commission as described
30 in section 26 of this 2020 Act.

31 **SECTION 18.** (1) As used in this section:

1 (a) “Commodity” means hemp.

2 (b) “Industry average unit price” means the average unit price for
3 the raw commodity within the industry and includes prices that are
4 calculated using a one-year, two-year or three-year average and data
5 from the most recent complete year or years preceding the year of
6 determination.

7 (2)(a) The Oregon Hemp Commission may assess, levy and collect
8 an assessment in an amount determined by rule, on all units of the
9 commodity grown or produced in this state and sold in commercial
10 channels. The commission may not apply an assessment to a trans-
11 action that occurred prior to the effective date of the rule in which
12 the commission adopted the assessment.

13 (b) The commission may assess, levy and collect a differential as-
14 sessment in an amount determined by the commission by rule, based
15 on the intended use, type or variety and value of the commodity.

16 (c) Casual sales made by a producer directly to a consumer are ex-
17 empt from the assessment described in this subsection.

18 (d) The commission may by rule define and regulate processing and
19 casual sales of the commodity and the methods of assessment under
20 this section.

21 (3) The amount of the assessment provided for in subsection (2) of
22 this section is limited as follows:

23 (a) If the commission assesses on a unit basis, the maximum as-
24 sessment may not exceed two percent of the industry average unit
25 price. The commission may determine the industry average unit price
26 by considering data and estimates of the United States Department
27 of Agriculture, Oregon State University or other reliable sources.

28 (b) If the commission assesses on a percentage of the dollar value
29 basis, the maximum assessment may not exceed two percent of the
30 dollar value that a producer receives for the raw commodity. If the
31 dollar value is not otherwise determinable, the commission may es-

1 **establish the dollar value based on the industry average unit price for**
2 **that year for the raw commodity.**

3 **(4) The commission shall assess, levy and collect an assessment**
4 **under subsection (2) of this section from the producer at the time and**
5 **in the manner provided by the commission by rule. The commission**
6 **is the owner of a collected assessment. A person who collects an as-**
7 **essment holds the assessment in trust for the benefit of the com-**
8 **mission and the state, and shall remit the assessment as required by**
9 **the commission under section 20 of this 2020 Act.**

10 **(5) Notwithstanding subsection (4) of this section, the commission**
11 **may assess, levy and collect an assessment from a producer as deter-**
12 **mined by the commission by rule. Except as provided in subsection (6)**
13 **of this section, the assessment may not exceed the limits described in**
14 **subsection (3) of this section.**

15 **(6) Notwithstanding subsection (5) of this section, the commission**
16 **may assess, levy and collect an assessment in excess of the limits de-**
17 **scribed in subsection (3) of this section pursuant to a federal market-**
18 **ing order or agreement.**

19 **(7) A person who believes that the amount of an assessment is in-**
20 **correct may apply to the commission for a refund not later than 60**
21 **days after the date on which the person paid the assessment.**

22 **SECTION 19. (1) The Oregon Hemp Commission may establish by**
23 **rule exemptions from the assessments described in section 18 of this**
24 **2020 Act based on:**

- 25 **(a) Hemp quantities;**
- 26 **(b) Types of hemp sales;**
- 27 **(c) Types of hemp producers; and**
- 28 **(d) Types of hemp processors.**

29 **(2) In adopting a rule under subsection (1) of this section, the**
30 **commission shall consider:**

- 31 **(a) Federal laws and rules, and laws and rules of other states, that**

1 relate to commodity commissions, boards and marketing orders;

2 (b) The practices, procedures and customs unique to the production,
3 processing and trading of hemp and to producers; and

4 (c) The cost of collecting the particular assessment and any prac-
5 tical problems relating to the collection.

6 (3) A producer or processor that is exempted from assessment but
7 required to submit reports to the commission is subject to section 22
8 of this 2020 Act.

9 **SECTION 20.** (1) A person responsible for collecting an assessment
10 on behalf of the Oregon Hemp Commission:

11 (a) Shall report to the commission as required by the commission
12 by rule.

13 (b) Who fails to deduct an assessment at the time of sale shall re-
14 port and pay the assessment to the commission.

15 (2) This section applies to a producer that is required to report and
16 pay an assessment.

17 **SECTION 21.** (1) When a processor lives, or has the processor's of-
18 fice, in Oregon, the producer shall report all transfers or sales made
19 to the processor on forms provided by the Oregon Hemp Commission
20 and pay the assessment moneys directly to the commission.

21 (2) When a processor lives, or has the processor's office, in another
22 state or country or is a federal or other governmental agency, the
23 producer shall report all transfers or sales made to the processor on
24 forms provided by the Oregon Hemp Commission and pay the assess-
25 ment moneys directly to the commission.

26 (3) If a producer is also licensed as a processor and performs all or
27 part of the producer's processing functions that would normally be
28 performed by another person in the role of processor, the producer
29 shall report all transfers or sales of hemp from the production of the
30 producer on forms provided by the commission and pay the assessment
31 moneys directly to the commission.

1 **SECTION 22.** (1) A person required to pay or collect an assessment
2 on hemp under sections 1 to 36 of this 2020 Act shall maintain accurate
3 records sufficient to enable the Oregon Hemp Commission to deter-
4 mine by inspection and audit the accuracy of assessments paid or due
5 to the commission and of reports made or due to the commission.

6 (2) For purposes of determining the accuracy of assessments paid
7 or due to the commission, the commission, or a person authorized by
8 the commission, may:

9 (a) Make an inspection during normal business hours of the busi-
10 ness premises of a person required to pay or collect an assessment;
11 and

12 (b) Audit the records of a person required to pay or collect an as-
13 sessment.

14 (3) For purposes of determining the accuracy of assessments paid
15 or due to the commission, the commission may issue a subpoena for
16 the production of any books, records or documents related to the
17 payment or collection of an assessment to a person required to pay
18 or collect the assessment.

19 (4) If an audit determines that a person is delinquent in the pay-
20 ment or collection of an assessment, the person shall pay the cost of
21 the audit, not to exceed an amount equal to the delinquent assess-
22 ment.

23 **SECTION 23.** (1) In addition to the penalties prescribed in section
24 36 of this 2020 Act, a person who delays transmittal of funds beyond
25 the time set by the Oregon Hemp Commission shall pay a penalty of
26 10 percent of the amount due and one and one-half percent interest
27 per month on the unpaid balance of the assessment.

28 (2) The commission may waive the penalty and interest described
29 in subsection (1) of this section upon a showing of good cause, as de-
30 termined by the commission by rule.

31 (3) Notwithstanding subsection (1) of this section, if an assessment

1 is collected pursuant to a federal marketing order or agreement, the
2 commission may establish a penalty or interest rate that is consistent
3 with the federal marketing order or agreement.

4 **SECTION 24.** (1) If a person responsible for the transmittal of as-
5 sessment moneys to the Oregon Hemp Commission fails to relinquish
6 assessment moneys collected, the person shall pay an amount equal
7 to twice the amount of the unrelinquished assessment moneys.

8 (2) The commission may commence a civil action or utilize any
9 other available legal or equitable remedy to collect an assessment or
10 civil penalty, obtain injunctive relief or obtain specific performance
11 under sections 1 to 36 of this 2020 Act.

12 (3) If the person responsible for the transmittal of assessment
13 moneys is a cooperative, corporation or joint venture, all directors and
14 officers of the cooperative, corporation or joint venture are personally
15 liable for a failure to relinquish the assessment moneys collected by
16 the cooperative, corporation or joint venture.

17 (4) If the commission obtains a favorable judgment in an action or
18 suit under subsection (2) of this section, the court shall award to the
19 commission costs and reasonable attorney fees.

20 (5) Unless the person required to pay an assessment and the person
21 responsible for collecting the assessment are related businesses, the
22 commission may not collect from the person required to pay the as-
23 sessment any amount deducted by the person responsible for collecting
24 the assessment and due and owing to the commission.

25 **SECTION 25.** (1) A producer may dispute the amount of an assess-
26 ment levied against the producer on a unit basis under section 18 of
27 this 2020 Act if the total assessment levied against the producer during
28 an assessment period established by the Oregon Hemp Commission by
29 rule exceeds the total dollar value received by the producer for the
30 hemp during that assessment period multiplied by the maximum law-
31 ful assessment percentage.

1 **(2) A producer who disputes the amount of an assessment as pro-**
2 **vided under subsection (1) of this section may file a challenge to the**
3 **assessment with the commission not more than 60 days after the close**
4 **of the assessment period. The challenge must be filed on a form pro-**
5 **vided by the State Department of Agriculture. The commission shall**
6 **process a challenge under this section pursuant to rules adopted under**
7 **subsection (4) of this section.**

8 **(3) A producer filing a challenge under this section has the burden**
9 **of proving the total dollar value received by the producer during the**
10 **assessment period. If the producer is also licensed as a processor, the**
11 **producer also has the burden of proving the prices paid to the producer**
12 **are equivalent to prices paid in arm’s-length transactions. The com-**
13 **mission shall refund the amount of the assessment that the producer**
14 **proves is in excess of the total dollar value received by the producer**
15 **for the hemp during the assessment period multiplied by the maximum**
16 **lawful assessment percentage.**

17 **(4)(a) The department shall adopt rules to carry out this section.**
18 **Rules adopted under this paragraph must include, but need not be**
19 **limited to, procedures for filing, processing and formal or informal**
20 **resolution of challenges and for determining hemp prices paid in**
21 **arm’s-length transactions.**

22 **(b) The commission shall adopt rules establishing assessment peri-**
23 **ods and may adopt other rules as necessary and that do not conflict**
24 **with the rules adopted by the department under this subsection.**

25 **SECTION 26.** **(1) Moneys a person collects or receives from the as-**
26 **essment levied pursuant to section 18 of this 2020 Act, and other**
27 **moneys the Oregon Hemp Commission receives, must be paid to the**
28 **authorized agent of the commission and promptly deposited into an**
29 **account established by the commission in a depository, as defined in**
30 **ORS 295.001, that is insured by the Federal Deposit Insurance Corpo-**
31 **ration or the National Credit Union Share Insurance Fund.**

1 (a) In a manner consistent with the requirements of ORS 295.001 to
2 295.108, the chairperson, vice chairperson and secretary-treasurer for
3 the commission shall ensure that sufficient collateral secures any
4 amount of funds on deposit that exceeds the coverage limits estab-
5 lished by the Federal Deposit Insurance Corporation or the National
6 Credit Union Share Insurance Fund.

7 (b) All moneys in the account are continuously appropriated to the
8 commission for the purposes of carrying out the commission's duties,
9 functions and powers.

10 (2) Moneys may not be withdrawn from or paid out of the account
11 except upon order of the commission, and upon checks or other orders
12 upon accounts signed by the secretary-treasurer or other member of
13 the commission that the commission designates and countersigned by
14 another member, officer or employee of the commission that the
15 commission designates. The commission shall keep a receipt, voucher
16 or other written record showing clearly the nature and items covered
17 by each check or other order.

18 (3) Subject to approval by the Director of Agriculture, the com-
19 mission may invest moneys the commission collects or receives. In-
20 vestments the commission makes are:

21 (a) Limited to investments described in ORS 294.035;

22 (b) Subject to the investments maturity date limitations described
23 in ORS 294.135; and

24 (c) Subject to the conduct prohibitions listed in ORS 294.145.

25 (4) Interest earned from any moneys the commission invests under
26 subsection (3) of this section is available to the commission in a
27 manner consistent with the commission's annual budget.

28 (5) In addition to, or in lieu of, investments described in subsection
29 (3) of this section, the commission may invest in the investment pool
30 described in ORS 294.805. For purposes of ORS 294.805 to 294.895, the
31 commission is a public corporation and the secretary-treasurer of the

1 **commission is the local government official.**

2 **SECTION 27. (1) A person authorized by the Oregon Hemp Com-**
3 **mission to receive or disburse moneys under sections 1 to 36 of this**
4 **2020 Act shall obtain a fidelity bond from the Oregon Department of**
5 **Administrative Services.**

6 **(2) The bond must be in an amount equal to the maximum amount**
7 **of moneys that the commission determines the person may control.**
8 **The commission may establish conditions on the person's control of**
9 **moneys under this section.**

10 **(3) The commission shall pay the cost of the bond.**

11 **(4) If the person is an employee of the commission, the department**
12 **shall purchase the bond and the commission shall pay the cost of the**
13 **bond.**

14 **SECTION 28. The Oregon Hemp Commission may cancel an un-**
15 **collectible assessment consistent with ORS 293.240. Subsequent col-**
16 **lection of debt written off under ORS 293.240 is governed by ORS**
17 **293.245.**

18 **SECTION 29. The Oregon Hemp Commission shall maintain accu-**
19 **rate books, records and accounts of its dealings. The books, records**
20 **and accounts of the commission must be open to inspection and audit**
21 **by the Secretary of State.**

22 **SECTION 30. (1) The Oregon Hemp Commission shall adopt an an-**
23 **ual budget, using classifications of expenditures and revenues re-**
24 **quired by ORS 291.206. The budget described in this subsection is not**
25 **subject to review by the Legislative Assembly or to future modification**
26 **by the Emergency Board or the Legislative Assembly.**

27 **(2)(a) The commission shall follow generally accepted accounting**
28 **principles and keep financial and statistical information as necessary**
29 **to completely and accurately disclose the financial operations of the**
30 **commission as required by the Secretary of State.**

31 **(b) The budget must show:**

1 (A) The estimated receipts and expenditures by or under the au-
2 thority of the commission under sections 1 to 36 of this 2020 Act for
3 the fiscal year for which the budget is adopted; and

4 (B) The actual receipts and expenditures by or under the authority
5 of the commission for the fiscal year preceding the fiscal year in which
6 the proposed budget is prepared, and the estimated receipts and ex-
7 penditures by or under the authority of the commission for the fiscal
8 year in which the budget is prepared.

9 (3) Estimated receipts and expenditures for the fiscal year for which
10 the budget is adopted must be fully itemized and be prepared and ar-
11 ranged clearly to show each item of receipts and expenditures. To the
12 extent practicable, the items of receipts and expenditures must be ar-
13 ranged under major groups or categories that are the same as the
14 most recent classifications of revenue and expenditures established
15 pursuant to ORS 291.206.

16 (4) The budget must contain only one estimate for emergency or
17 other expenditures that are unforeseen at the time the budget is pre-
18 pared.

19 (5)(a) The commission shall call and hold at least one public meet-
20 ing on the proposed budget. The commission shall, in determining the
21 time and place of the meeting, consider the convenience of the ma-
22 jority of the producers licensed by the State Department of Agricul-
23 ture.

24 (b) At a meeting described in this subsection, any person has the
25 right to be heard with respect to the proposed budget.

26 (6) At least 14 days prior to the date of a meeting described in
27 subsection (5) of this section, the commission shall publish notice at
28 least once in a newspaper of general circulation in this state. The no-
29 tice must include the purpose, time and place of the meeting and state
30 that a copy of the proposed budget is available for public inspection
31 at the place of business of the commission or other location.

1 (7)(a) After a budget has been adopted, the commission shall submit
2 to the Director of Agriculture a copy of the budget and an affidavit
3 setting forth the pertinent facts relating to the preparation and
4 adoption of the budget. The director shall examine the budget and af-
5 fidavit within 30 days of their receipt.

6 (b) If the director determines that the estimated receipts and ex-
7 penditures conform with the authority of the commission and other
8 requirements, and the facts set forth in the affidavit indicate the
9 budget was lawfully prepared and adopted, the director shall certify
10 those determinations on the copy of the budget and make the budget
11 final.

12 (c) If the director determines that the budget fails to meet re-
13 quirements, the director shall immediately notify the commission of
14 the failures. The commission shall promptly take all practicable
15 measures to remedy the failures and resubmit a copy of the budget to
16 the director.

17 (d) The director shall retain the certified copy of the final budget
18 and make the budget available for public inspection during normal
19 business hours of the State Department of Agriculture.

20 (8) The commission shall:

21 (a) Prepare an annual financial statement of commission revenues
22 and expenses and make the statement available for public review;

23 (b) Provide a copy of the annual financial statement and other re-
24 quired reports to the department not later than 20 days after the end
25 of the fiscal year; and

26 (c) Upon request of the Secretary of State, provide a copy of the
27 statement to the secretary.

28 SECTION 31. An expenditure of moneys for a fiscal year may not
29 be made or incurred by or under the authority of the Oregon Hemp
30 Commission under sections 1 to 36 of this 2020 Act unless the com-
31 mission complies with section 30 of this 2020 Act.

1 **SECTION 32.** (1) Except as otherwise provided in subsection (2) of
2 this section, an expenditure of moneys for a fiscal year may not be
3 made or incurred by or under the authority of the Oregon Hemp
4 Commission under sections 1 to 36 of this 2020 Act:

5 (a) In excess of the total amount of expenditures estimated for the
6 fiscal year in the budget adopted for the fiscal year or in excess of the
7 total amount of expenditures estimated for any major category in the
8 budget adopted for the fiscal year.

9 (b) For any purpose different than that indicated by the major cat-
10 egory in the budget adopted for the fiscal year.

11 (2) An expenditure of moneys for a fiscal year unforeseen at the
12 time the budget is prepared may not be made or incurred by or under
13 the authority of the commission under sections 1 to 36 of this 2020 Act
14 in excess of the amount of unforeseen expenditures estimated as pro-
15 vided in section 30 of this 2020 Act.

16 **SECTION 33.** (1) Subject to section 32 (2) of this 2020 Act, expendi-
17 tures of moneys for a fiscal year unforeseen at the time the Oregon
18 Hemp Commission budget is prepared may be made or incurred by
19 order of the commission. When an unforeseen expenditure of moneys
20 occurs in a fiscal year, the commissioners must approve a motion for
21 an order of a fund transfer. The motion must include:

22 (a) The amount and purpose of the expenditure and why the ex-
23 penditure was unforeseen;

24 (b) A request for the certification by the Director of Agriculture of
25 the order;

26 (c) The specific major category of the budget to which the specific
27 funds are to be allocated; and

28 (d) The specific major category of the budget from which the funds
29 are to be transferred.

30 (2) At least one copy of the order for the fund transfer must be filed
31 in the office of the commission and made available for public in-

1 **spection during normal business hours of the commission.**

2 **(3) The commission shall send the request for certification of the**
3 **order for the fund transfer to the director. The director shall:**

4 **(a) Examine the request, the commission's most recent financial**
5 **statement, the minutes of the meeting at which the commissioners**
6 **approved the motion to request the order and the budget to which the**
7 **order relates.**

8 **(b) Certify the order if the director determines that the form of the**
9 **order is in accordance with the law, that the facts set forth in the**
10 **order and the budget to which the order relates indicate that the order**
11 **is in accordance with the law and that the proposed unforeseen ex-**
12 **penditure is appropriate to accomplish the goals and needs of the**
13 **commission.**

14 **(c) Immediately notify the commission if the director determines**
15 **that the order is defective because:**

16 **(A) Of a failure to comply with section 30 of this 2020 Act;**

17 **(B) The final budget or the preparation or adoption of the final**
18 **budget is defective; or**

19 **(C) The estimated expenditures do not conform with statutory re-**
20 **quirements.**

21 **(4) If the director finds that the order is defective, the commission**
22 **shall promptly take all practicable steps to remedy the defects.**

23 **(5) After certifying an order under this section, the director shall**
24 **retain the certified copy of the order and make the copy available for**
25 **public inspection during normal business hours of the State Depart-**
26 **ment of Agriculture.**

27 **SECTION 34. (1) Unless the Legislative Assembly orders a refund**
28 **pursuant to subsection (2) of this section, if the Legislative Assembly**
29 **abolishes the Oregon Hemp Commission, any moneys remaining in the**
30 **possession of the abolished commission on the effective date of the**
31 **abolishment are transferred to Oregon State University and are con-**

1 **tinuously appropriated to the university for research benefitting pro-**
2 **ducers.**

3 **(2) The Legislative Assembly may order in an Act dissolving the**
4 **commission that any moneys remaining in the possession of the abol-**
5 **ished commission on the effective date of the abolishment be refunded**
6 **on a proportional basis to the persons who paid assessments to the**
7 **commission during the assessment year in which the commission was**
8 **abolished.**

9 **SECTION 35. Any sale of hemp by a producer or processor is a sale**
10 **in commercial channels for the purposes of section 36 of this 2020 Act.**

11 **SECTION 36. Violation of any provision of sections 1 to 36 of this**
12 **2020 Act is a Class C misdemeanor.**

13 **SECTION 37. Sections 1 to 36 of this 2020 Act apply to hemp**
14 **produced, processed, delivered, transferred or sold on and after the**
15 **operative date of this 2020 Act.**

16 **SECTION 38. (1) Sections 1 to 36 of this 2020 Act become operative**
17 **on January 1, 2021.**

18 **(2) The Director of Agriculture, the State Department of Agricul-**
19 **ture, the Department of Justice and the Oregon Department of Ad-**
20 **ministrative Services may take any action before the operative date**
21 **specified in subsection (1) of this section that is necessary to enable**
22 **the director and the departments to exercise, on and after the opera-**
23 **tive date specified in subsection (1) of this section, all of the duties,**
24 **functions and powers conferred on the director and the departments**
25 **by sections 1 to 36 of this 2020 Act.**

26 **SECTION 39. This 2020 Act takes effect on the 91st day after the**
27 **date on which the 2020 regular session of the Eightieth Legislative**
28 **Assembly adjourns sine die.**

29
