

**A-Engrossed**  
**House Bill 2478**

Ordered by the House May 27  
Including House Amendments dated May 27

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)

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Makes statutory changes to achieve gender neutral language with respect to [*legally recognized marriages*] **individuals who are married.**

**A BILL FOR AN ACT**

1  
2 Relating to gender neutral language in laws; amending ORS 25.280, 59.350, 93.180, 105.920, 106.020,  
3 106.041, 106.150, 106.315, 107.005, 107.025, 107.485, 108.010, 108.020, 108.030, 108.040, 108.045,  
4 108.050, 108.060, 108.080, 108.090, 108.100, 108.110, 108.510, 108.530, 108.550, 110.384, 136.655,  
5 163.565, 164.035, 164.164, 174.100, 215.705, 314.105, 315.465, 315.469, 315.610, 315.675, 316.042,  
6 316.116, 316.122, 316.367, 316.567, 316.690, 316.695, 408.730, 418.210, 419B.040, 432.088, 496.146,  
7 656.005, 656.204, 656.226, 659A.309, 677.365, 726.990, 742.504, 743.027 and 743A.084.

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

9 **SECTION 1.** ORS 25.280 is amended to read:

10 25.280. In any judicial or administrative proceeding for the establishment or modification of a  
11 child support obligation under ORS chapter 107, 108, 109, 110 or 416 or ORS 419B.400, 419B.923,  
12 419C.590 or 419C.610, the amount of support determined by the formula established under ORS  
13 25.275 is presumed to be the correct amount of the obligation. This is a rebuttable presumption and  
14 a written finding or a specific finding on the record that the application of the formula would be  
15 unjust or inappropriate in a particular case is sufficient to rebut the presumption. The following  
16 criteria shall be considered in making the finding:

17 (1) Evidence of the other available resources of a parent;

18 (2) The reasonable necessities of a parent;

19 (3) The net income of a parent remaining after withholdings required by law or as a condition  
20 of employment;

21 (4) A parent's ability to borrow;

22 (5) The number and needs of other dependents of a parent;

23 (6) The special hardships of a parent including, but not limited to, any medical circumstances  
24 of a parent affecting the parent's ability to pay child support;

25 (7) The needs of the child;

26 (8) The desirability of the custodial parent remaining in the home as a full-time parent and  
27 homemaker;

28 (9) The tax consequences, if any, to both parents resulting from spousal support awarded and

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 determination of which parent will name the child as a dependent; and

2 (10) The financial advantage afforded a parent's household by the income of a spouse or another  
3 person with whom the parent lives in a relationship similar to *[husband and wife]* **that of a**  
4 **spouse**.

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

6 **SECTION 4.** ORS 59.350 is amended to read:

7 59.350. For purposes of ORS 59.005 to 59.451, 59.710 to 59.830, 59.991 and 59.995:

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

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

13 **SECTION 5.** ORS 93.180 is amended to read:

14 93.180. (1) A conveyance or devise of real property, or an interest in real property, that is made  
15 to two or more persons:

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

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

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

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

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

28 **SECTION 6.** ORS 105.920 is amended to read:

29 105.920. There shall be a form of co-ownership of personal property known as joint tenancy. A  
30 joint tenancy shall have the incidents of survivorship and severability as at common law. A joint  
31 tenancy may be created only by a written instrument which expressly declares the interest created  
32 to be a joint tenancy. It may be created by a transfer or bequest from a sole owner to others, or to  
33 the sole owner and others; or from tenants in common or joint tenants to others, or to themselves  
34 or some of them, or to themselves or any of them and others; or from *[husband and wife]* **spouses**  
35 **married to each other**, when holding title as community property or otherwise, to others, or to  
36 themselves, or to one of them and to another or others. A transfer or bequest creating a joint  
37 tenancy shall not derogate from the rights of creditors.

38 **SECTION 7.** ORS 106.020 is amended to read:

39 106.020. The following marriages are prohibited; and, if solemnized within this state, are abso-  
40 lutely void:

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

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

1        **SECTION 8.** ORS 106.041 is amended to read:

2        106.041. (1) All persons wishing to enter into a marriage contract shall obtain a marriage license  
3 from the county clerk upon application, directed to any person or religious organization or congrega-  
4 tion authorized by ORS 106.120 to solemnize marriages, and authorizing the person, organization  
5 or congregation to join together as [*husband and wife*] **spouses in a marriage** the persons named  
6 in the license.

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

9        (a) Each applicant's Social Security number recorded on a confidential portion of the applica-  
10 tion, license and record of marriage;

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

13        (c) The name and address of the affiant under ORS 106.050, if required; and

14        (d) Each applicant's name after marriage as provided in ORS 106.220.

15        (3) Each applicant for a marriage license shall file with the county clerk from whom the mar-  
16 riage license is sought a written application for the license on forms prescribed for this purpose by  
17 the Center for Health Statistics.

18        (4) A marriage license must contain the following statement: "Neither you nor your spouse is  
19 the property of the other. The laws of the State of Oregon affirm your right to enter into marriage  
20 and at the same time to live within the marriage free from violence and abuse."

21        (5) An applicant may not intentionally make a material false statement in the records required  
22 by this section.

23        (6) The county clerk may not issue a marriage license until the provisions of this section and  
24 ORS 106.050 and 106.060 are complied with.

25        **SECTION 9.** ORS 106.150 is amended to read:

26        106.150. (1) In the solemnization of a marriage no particular form is required except that the  
27 parties thereto shall assent or declare in the presence of the clergyman, county clerk or judicial  
28 officer solemnizing the marriage and in the presence of at least two witnesses, that they take each  
29 other to be [*husband and wife*] **spouses in a marriage**.

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

35        **SECTION 10.** ORS 106.315 is amended to read:

36        106.315. (1) A domestic partnership is prohibited and void when:

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

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

44        (2) When either party to a domestic partnership is incapable of making the civil contract or  
45 consenting to the contract for want of legal age or sufficient understanding, or when the consent

1 of either party is obtained by force or fraud, the domestic partnership is void from the time it is so  
2 declared by a judgment of a court having jurisdiction of the domestic partnership.

3 **SECTION 11.** ORS 107.005 is amended to read:

4 107.005. (1) A marriage may be declared void from the beginning for any of the causes specified  
5 in ORS 106.020; and, whether so declared or not, shall be deemed and held to be void in any action,  
6 suit or proceeding in which *[it]* **the marriage** may come into question.

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

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

13 **SECTION 12.** ORS 107.025 is amended to read:

14 107.025. (1) A judgment for the dissolution of a marriage or a permanent or unlimited separation  
15 may be rendered when irreconcilable differences between the parties have caused the irremediable  
16 breakdown of the marriage.

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

18 (a) Irreconcilable differences between the parties have caused a temporary or unlimited break-  
19 down of the marriage;

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

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

25 **SECTION 13.** ORS 107.485 is amended to read:

26 107.485. A marriage may be dissolved by the summary dissolution procedure specified in this  
27 section and ORS 107.490 when all of the following conditions exist at the time the proceeding is  
28 commenced:

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

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

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

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

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

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

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

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

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

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

43 (8) The petitioner waives any rights to pendente lite orders except those pursuant to ORS  
44 107.700 to 107.735 or 124.005 to 124.040.

45 (9) The petitioner knows of no other pending domestic relations suits involving the marriage in

1 this or any other state.

2 **SECTION 14.** ORS 108.010 is amended to read:

3 108.010. (1) All laws *[which]* **that** impose or recognize civil disabilities upon a *[wife which]*  
4 **spouse in a marriage that** are not imposed **upon** or recognized as existing *[as]* **with respect** to  
5 the *[husband]* **other spouse are** hereby *[are]* repealed*;* *and*.

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

10 **SECTION 15.** ORS 108.020 is amended to read:

11 108.020. Neither *[husband nor wife]* **spouse in a marriage** is liable for the debts or liabilities  
12 of the other **spouse** incurred before marriage*;* *and*. Except as *[otherwise]* provided in ORS 108.040,  
13 *[they are]* **a spouse in a marriage is** not liable for the separate debts of *[each other, nor is]* **the**  
14 **other spouse, and** the rent or income of property owned by either *[husband or wife]* **spouse is not**  
15 liable for the separate debts of the other **spouse**.

16 **SECTION 16.** ORS 108.030 is amended to read:

17 108.030. For all civil injuries committed by a *[married woman]* **spouse in a marriage**, damages  
18 may be recovered from *[her alone]* **that spouse only**, and *[her husband shall not be]* **the other**  
19 **spouse is not** responsible *[therefor]* **for such civil injuries**, except *[in case]* where *[he]* **the spouses**  
20 would be jointly responsible with *[her]* **each other** if the marriage did not exist.

21 **SECTION 17.** ORS 108.040 is amended to read:

22 108.040. (1)(a) The expenses of the family and the education of the minor children are chargeable  
23 upon the property of both *[husband and wife]* **spouses in a marriage who are parents of the**  
24 **minor children**, or either of them, and in relation thereto they may be sued jointly or separately.

25 (b) As used in this subsection:

26 (A) "Expenses of the family" includes only expenses incurred for the benefit of a member of the  
27 family.

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

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

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

38 (a) Whether the spouses subsequently reconciled.

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

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

41 (d) Whether the spouses intend to reconcile.

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

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

45 **SECTION 18.** ORS 108.045 is amended to read:

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

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

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

11 **SECTION 19.** ORS 108.050 is amended to read:

12 108.050. The property and pecuniary rights of every [*married woman*] **spouse in a marriage**  
 13 **acquired** at the time of [*her*] **the** marriage or afterwards [*acquired*], including real or personal  
 14 property acquired by [*her*] **the spouse’s** own labor during [*coverture*] **the marriage**, shall not be  
 15 subject to the debts or contracts of [*her husband*] **the other spouse**.

16 **SECTION 20.** ORS 108.060 is amended to read:

17 108.060. When property is owned by either [*husband or wife*] **spouse in a marriage**, the other  
 18 **spouse** has no interest [*therein which*] **in that property that** can be the subject of contract between  
 19 [*them*] **the spouses**, or [*such interest as will*] **that can** make the [*same*] **spouses** liable for the con-  
 20 tracts or liabilities of [*either the husband or wife*] **the other spouse** who is not the owner of the  
 21 property, except as provided in ORS 108.040.

22 **SECTION 21.** ORS 108.080 is amended to read:

23 108.080. Should either [*the husband or wife*] **spouse in a marriage** obtain possession or control  
 24 of property belonging to the other **spouse** either before or after marriage, the owner of the property  
 25 may maintain an action [*therefor*] **for possession and control of the property**, or for any right  
 26 growing out of the [*same*] **ownership of the property**, in the same manner and to the same extent  
 27 as if [*they*] **the spouses** were unmarried.

28 **SECTION 22.** ORS 108.090 is amended to read:

29 108.090. (1) A conveyance, transfer or lien executed by either [*husband or wife*] **spouse in a**  
 30 **marriage** to or in favor of the other **spouse** is valid to the same extent as between other persons.

31 (2) When a [*husband or wife*] **spouse** conveys to the other **spouse** an undivided one-half of any  
 32 real property and retains a like undivided half, and in such conveyance there are used words indi-  
 33 cating an intention to create an estate in entirety, [*said husband and wife*] **the spouses** hold the  
 34 real property described in the conveyance by the entirety.

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

39 **SECTION 23.** ORS 108.100 is amended to read:

40 108.100. [*One spouse may constitute*] **A spouse in a marriage may designate** the other [*his or*  
 41 *her*] **spouse to be the spouse’s** attorney in fact to control, sell and convey, mortgage, or bar dower  
 42 or curtesy for [*their*] **the spouses’** mutual benefit, and may revoke the [*same*] **designation** to the  
 43 same extent and in the same manner as other persons.

44 **SECTION 24.** ORS 108.110 is amended to read:

45 108.110. (1) Any married person may apply to the circuit court of the county in which the mar-

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

12 (2) As used in this section, “child attending school” has the meaning given that term in ORS  
13 107.108.

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

15 (a) Whether there is pending in this state or any other jurisdiction any type of support pro-  
16 ceeding involving children of the marriage, including a proceeding brought under ORS 107.085,  
17 109.100, 125.025, 416.400 to 416.465, 419B.400 or 419C.590 or ORS chapter 110; and

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

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

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

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

28 **SECTION 25.** ORS 108.510 is amended to read:

29 108.510. (1) Notwithstanding any repeal of chapter 440, Oregon Laws 1943, known as the Oregon  
30 Community Property Law of 1943, [any husband and wife] **spouses in a marriage** who elected to  
31 come under the terms [thereof] **of that law** may revoke [such] **the** election upon filing in the office  
32 of the Secretary of State a notice of [their] **the spouses’** desire to revoke [such] **the** election in the  
33 following form:

34 \_\_\_\_\_

35

36

37

38

39

40

REVOCATION OF ELECTION  
TO COME UNDER THE  
OREGON COMMUNITY  
PROPERTY LAW, CHAPTER 440,  
OREGON LAWS 1943

41

42

43

44

45

KNOW ALL PERSONS BY THESE PRESENTS, That we, \_\_\_\_\_ and \_\_\_\_\_, hereby state  
and represent that we are [husband and wife] **spouses in a marriage**; that we reside in \_\_\_\_\_  
County, Oregon, and our post-office address is No. \_\_\_\_\_ Street, City of \_\_\_\_\_; that we do  
hereby revoke our election filed in the office of the Secretary of State of the State of Oregon on the  
\_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, to avail ourselves of the provisions of chapter 440, Oregon Laws

1 1943, being the Oregon Community Property Law.

2 IN WITNESS WHEREOF we have hereunto set our hands and seals this \_\_\_\_\_ day of  
3 \_\_\_\_\_, 2\_\_\_\_\_.

4 \_\_\_\_\_  
5 \_\_\_\_\_  
6 STATE OF OREGON, )  
7 ) ss.  
8 County of \_\_\_\_\_ )

9 BE IT REMEMBERED that on this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, before me, the under-  
10 signed, a notary public in and for said county and state, personally appeared the within named  
11 \_\_\_\_\_ and \_\_\_\_\_, [*his wife*] **spouses in a marriage**, who are known to me to be the identical  
12 persons described in and who executed the within instrument, and acknowledged to me that they  
13 executed the same.

14 \_\_\_\_\_  
15 Notary Public for Oregon

16 My commission expires: \_\_\_\_\_  
17 \_\_\_\_\_

18  
19 Acknowledgments may be taken by any other officer authorized to take acknowledgments.

20 (2) Such an instrument, together with a fee of \$15, shall be presented to the Secretary of State,  
21 who thereupon shall file the instrument, properly index it in a book kept for that purpose and  
22 transmit to the recording officer of each county in the state the certificate of the Secretary of State,  
23 setting forth the nature of such instrument, the names of the parties thereto, the date thereof, and  
24 the date of the filing thereof in the office of the Secretary of State. Upon receipt of such certificate,  
25 the recording officer shall file it and properly index it in a book kept for that purpose.

26 (3) Public notice of such revocation exists upon compliance with subsection (2) of this section.

27 (4) The filing of such revocation operates to restore the title to any community property of  
28 persons making the revocation to the status of the property which existed on the date on which such  
29 persons filed a certificate of election under the terms of the Oregon Community Property Law of  
30 1943. Such revocation in nowise limits the right of such persons to execute and record such  
31 conveyances, assignments and transfers of property, or title thereto, as may operate to effect and  
32 make a matter of record the restoration of titles to the status they occupied prior to the filing of  
33 the certificate of election.

34 **SECTION 26.** ORS 108.530 is amended to read:

35 108.530. Community property acquired during [*coverture*] **marriage** and between July 5, 1947,  
36 and April 11, 1949, may be converted into property held as tenants in common or by entirety or as  
37 the separate property of either spouse by an agreement in writing evidencing such intent, signed  
38 by both [*husband and wife*] **spouses in a marriage**. If [*such*] **the** agreement affects title to real  
39 property, [*it*] **the agreement** shall describe the property affected [*thereby*] **by the agreement**, shall  
40 be executed and acknowledged in the same manner as deeds and shall be recorded in the deed re-  
41 cords of each county in which any such real property is located.

42 **SECTION 27.** ORS 108.550 is amended to read:

43 108.550. Notwithstanding any provisions of chapter 525, Oregon Laws 1947, or any provision of  
44 ORS 108.520 to 108.550, any [*other*] **third** person may rely, and shall be fully protected in [*so*  
45 *doing*] **relying**, upon the right of [*the husband or the wife*] **either spouse in a marriage** to receive,



1 manage, control, dispose of or otherwise deal with property standing in [*his or her*] **that spouse's**  
2 name in such manner [*that, by law, but for the provisions of said statutes, he or she would be entitled*  
3 *so to deal therewith*] **as the spouse is entitled to by law.**

4 **SECTION 28.** ORS 110.384 is amended to read:

5 110.384. (1) The physical presence of the petitioner in a responding tribunal of this state is not  
6 required for the establishment, enforcement or modification of a support order or the rendition of  
7 a judgment determining parentage.

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

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

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

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

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

27 (7) A privilege against disclosure of communications between spouses does not apply in a pro-  
28 ceeding under this chapter.

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

31 **SECTION 29.** ORS 136.655 is amended to read:

32 136.655. (1) Except as provided in subsection (2) of this section, in all criminal actions in which  
33 [*the husband*] **a spouse in a marriage** is the party accused, the [*wife*] **other spouse** is a competent  
34 witness, **but neither spouse** [*and when the wife is the party accused, the husband is a competent*  
35 *witness; but neither husband nor wife in such cases*] shall be compelled or allowed to testify [*in such*  
36 *cases*] **in a criminal action**, except as provided in ORS 40.255.

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

42 **SECTION 30.** ORS 163.565 is amended to read:

43 163.565. (1) Proof that a child was born to a woman during the time a man lived and cohabited  
44 with her, or held her out as his [*wife*] **spouse in a marriage**, is prima facie evidence that he is the  
45 father of the child. This subsection does not exclude any other legal evidence tending to establish

1 the parental relationship.

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

5 **SECTION 31.** ORS 164.035 is amended to read:

6 164.035. (1) In a prosecution for theft it is a defense that the defendant acted under an honest  
7 claim of right, in that:

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

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

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

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

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

21 **SECTION 32.** ORS 164.164 is amended to read:

22 164.164. (1) In a prosecution under ORS 164.162, it is a defense that the defendant acted under  
23 an honest claim of right in that:

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

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

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

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

33 (b) The facilities to which paragraph (a) of this subsection applies are juvenile detention facili-  
34 ties and local correctional facilities as defined in ORS 169.005, detention facilities as defined in ORS  
35 419A.004, youth correction facilities as defined in ORS 420.005 and Department of Corrections in-  
36 stitutions as defined in ORS 421.005.

37 **SECTION 33.** ORS 174.100 is amended to read:

38 174.100. As used in the statute laws of this state, unless the context or a specially applicable  
39 definition requires otherwise:

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

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

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

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

45 [(4)] (5) "May not" and "shall not" are equivalent expressions of an absolute prohibition.

1        [(5)] (6) "Person" includes individuals, corporations, associations, firms, partnerships, limited li-  
2 ability companies and joint stock companies.

3        [(6)] (7) "Sexual orientation" means an individual's actual or perceived heterosexuality,  
4 homosexuality, bisexuality or gender identity, regardless of whether the individual's gender identity,  
5 appearance, expression or behavior differs from that traditionally associated with the individual's  
6 sex at birth.

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

10       [(8)] (9) "To" means "to and including" when used in a reference to a series of statute sections,  
11 subsections or paragraphs.

12       [(9)] (10) "United States" includes territories, outlying possessions and the District of Columbia.

13       [(10)] (11) "Violate" includes failure to comply.

14       **SECTION 34.** ORS 215.705 is amended to read:

15       215.705. (1) A governing body of a county or its designate may allow the establishment of a  
16 single-family dwelling on a lot or parcel located within a farm or forest zone as set forth in this  
17 section and ORS 215.710, 215.720, 215.740 and 215.750 after notifying the county assessor that the  
18 governing body intends to allow the dwelling. A dwelling under this section may be allowed if:

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

21       (A) Prior to January 1, 1985; or

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

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

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

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

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

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

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

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

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

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

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

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

1 not apply generally to other land in the vicinity.

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

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

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

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

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

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

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

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

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

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

18 (B) The tract is not a flaglot and is bordered on at least 25 percent of its perimeter by tracts  
19 that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-  
20 quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within the  
21 urban growth boundary, but only if the subject tract abuts an urban growth boundary; or

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

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

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

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

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

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

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

45 (c) Create conditions or circumstances that the county determines would be contrary to the

1 purposes or intent of its acknowledged comprehensive plan or land use regulations.

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

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

10 **SECTION 35.** ORS 314.105 is amended to read:

11 314.105. For purposes of ORS 314.105 to 314.135:

12 (1) “Determination” means:

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

14 (b) A closing agreement made under ORS 305.150;

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

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

25 (2) “Related taxpayer” means a taxpayer who, with the taxpayer with respect to whom a deter-  
 26 mination is made, stood, in the taxable year with respect to which the erroneous inclusion, exclu-  
 27 sion, omission, allowance, or disallowance was made, in one of the following relationships:

28 (a) [*Husband and wife*] **Spouses in a marriage**;

29 (b) Grantor and fiduciary;

30 (c) Grantor and beneficiary;

31 (d) Fiduciary and beneficiary, legatee, or heir;

32 (e) Decedent and decedent’s estate;

33 (f) Partner;

34 (g) Member of an affiliated group of corporations as defined in section 1504 of the Internal Re-  
 35 venue Code; or

36 (h) Shareholder of an S corporation, as defined in section 1361 of the Internal Revenue Code.

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

38 **SECTION 36.** ORS 315.465 is amended to read:

39 315.465. (1) As used in this section and ORS 315.469:

40 (a) “Alternative fuel vehicle” means a motor vehicle that can operate on a fuel blend.

41 (b) “Biodiesel” has the meaning given that term in ORS 646.905.

42 (c) “Biomass” has the meaning given that term in ORS 315.141.

43 (d) “Bone dry ton” means matter that is dried to less than one percent moisture content and  
 44 that weighs 2,000 pounds.

45 (e) “Fuel blend” means diesel fuel of blends equal to or exceeding 99 percent biodiesel or gaso-

1 line of a blend equal to or exceeding 85 percent methanol or ethanol.

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

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

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

8 (a) Determine the quantity of fuel blend or solid biofuel purchased by the taxpayer during the  
9 tax year;

10 (b) Categorize the fuel blend or solid biofuel as prescribed in rules adopted under ORS 469B.400;  
11 and

12 (c) Multiply the quantity of fuel blend or solid biofuel in a particular category by the appropri-  
13 ate credit rate for that category, expressed in dollars and cents.

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

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

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

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

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

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

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

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

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

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

41 **SECTION 37.** ORS 315.469 is amended to read:

42 315.469. (1) A resident individual shall be allowed a tax credit against the taxes otherwise due  
43 under ORS chapter 316 for costs paid or incurred to purchase fuel for primary home space heating  
44 that is at least 20 percent biodiesel. The credit allowed under this section is the lesser of five cents  
45 per gallon or \$200.

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

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

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

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

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

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

18 **SECTION 38.** ORS 315.610 is amended to read:

19 315.610. (1) A taxpayer shall be allowed a credit against the taxes otherwise due under ORS  
20 chapter 316 (or, if the taxpayer is a corporation, under ORS chapter 317 or 318) for premium costs  
21 actually paid or incurred during the tax year for a long term care insurance policy:

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

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

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

27 (b)(A) If the long term care insurance coverage is for the taxpayer and the dependents or par-  
28 ents of the taxpayer, \$500; or

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

31 (3) A credit may not be allowed under this section if the policy was first issued prior to January  
32 1, 2000.

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

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

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

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

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

44 (d) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the  
45 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-

1 lowed under this section shall be prorated or computed in a manner consistent with ORS 314.085.

2 (6) As used in this section, “long term care insurance” has the meaning given that term in ORS  
3 743.652.

4 **SECTION 39.** ORS 315.675 is amended to read:

5 315.675. (1) As used in this section, “cultural organization” means an entity that is:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 **SECTION 40.** ORS 316.042 is amended to read:

38 316.042. In the case of a joint return of [*husband and wife*] **spouses in a marriage**, pursuant  
39 to ORS 316.122 or pursuant to ORS 316.367, the tax imposed by ORS 316.037 shall be twice the tax  
40 which would be imposed if the taxable income were cut in half. For purposes of this section, a return  
41 of a head of household or a surviving spouse, as defined in subsections (a) and (b) of section 2 of the  
42 Internal Revenue Code, shall be treated as a joint return of [*husband and wife*] **spouses in a mar-  
43 riage**.

44 **SECTION 41.** ORS 316.116 is amended to read:

45 316.116. (1)(a) A resident individual shall be allowed a credit against the taxes otherwise due



1 under this chapter for costs paid or incurred for construction or installation of each of one or more  
2 alternative energy devices in a dwelling.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 **SECTION 42.** ORS 316.122 is amended to read:

7 316.122. (1) If the federal taxable income of [*husband and wife*] **spouses in a marriage** (one  
8 being a part-year resident and the other a nonresident) is determined on a joint federal return, their  
9 taxable income in this state shall be separately determined, unless they elect to file a joint return,  
10 in which case their tax on their joint income shall be determined in this state pursuant to ORS  
11 316.037 (3).

12 (2) If the federal taxable income of [*husband and wife*] **spouses in a marriage** (one being a  
13 full-year resident and the other a part-year resident) is determined on a joint federal return, their  
14 taxable income in this state shall be separately determined, unless they elect to file a joint return,  
15 in which case their tax on their joint income shall be determined in this state pursuant to ORS  
16 316.037 (2).

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

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

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

28 **SECTION 43.** ORS 316.367 is amended to read:

29 316.367. [*A husband and wife*] **Spouses in a marriage** may make a joint return with respect to  
30 the tax imposed by this chapter even though one of the spouses has neither gross income nor de-  
31 ductions, except that:

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

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

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

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

42 **SECTION 44.** ORS 316.567 is amended to read:

43 316.567. (1) Except as provided in subsection (2) of this section, [*a husband and wife*] **spouses**  
44 **in a marriage** may make a single declaration jointly under ORS 316.557 to 316.589. The liability of  
45 the [*husband and wife*] **spouses** making such a declaration shall be joint and several.

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

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

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

4 or

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

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

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

11 (b) Divide the estimated tax between them.

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

18 **SECTION 45.** ORS 316.690 is amended to read:

19 316.690. (1) Subject to subsection (2) of this section, in addition to other modifications provided  
20 in this chapter, and if a taxpayer elects to take foreign income taxes imposed for the taxable year  
21 by a foreign country as a credit on the federal income tax return or does not itemize personal de-  
22 ductions on the federal income tax return, there shall be subtracted from federal taxable income in  
23 the computation of state taxable income the amount of foreign income taxes imposed for the taxable  
24 year by a foreign country.

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

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

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

32 **SECTION 46.** ORS 316.695 is amended to read:

33 316.695. (1) In addition to the modifications to federal taxable income contained in this chapter,  
34 there shall be added to or subtracted from federal taxable income:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (ii) A nonresident alien individual;

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

31 (iv) An estate or trust;

32 (v) A common trust fund; or

33 (vi) A partnership.

34 (d) For the purposes of paragraph (c)(A) of this subsection, the taxpayer's itemized deductions  
35 are the amount of the taxpayer's itemized deductions as defined in section 63(d) of the Internal Re-  
36 venue Code (reduced, if applicable, as described under section 68 of the Internal Revenue Code)  
37 minus the deduction for Oregon income tax (reduced, if applicable, by the proportion that the re-  
38 duction in federal itemized deductions resulting from section 68 of the Internal Revenue Code bears  
39 to the amount of federal itemized deductions as defined for purposes of section 68 of the Internal  
40 Revenue Code).

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

1 amount allowed under this chapter.

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

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

11 (b) The limits applicable to this subsection are:

12 (A) \$5,500, if the federal adjusted gross income of the taxpayer for the tax year is less than  
13 \$125,000, or, if reported on a joint return, less than \$250,000.

14 (B) \$4,400, if the federal adjusted gross income of the taxpayer for the tax year is \$125,000 or  
15 more and less than \$130,000, or, if reported on a joint return, \$250,000 or more and less than  
16 \$260,000.

17 (C) \$3,300, if the federal adjusted gross income of the taxpayer for the tax year is \$130,000 or  
18 more and less than \$135,000, or, if reported on a joint return, \$260,000 or more and less than  
19 \$270,000.

20 (D) \$2,200, if the federal adjusted gross income of the taxpayer for the tax year is \$135,000 or  
21 more and less than \$140,000, or, if reported on a joint return, \$270,000 or more and less than  
22 \$280,000.

23 (E) \$1,100, if the federal adjusted gross income of the taxpayer for the tax year is \$140,000 or  
24 more and less than \$145,000, or, if reported on a joint return, \$280,000 or more and less than  
25 \$290,000.

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

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

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

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

38 (B) The cost-of-living adjustment for a calendar year is the percentage by which the monthly  
39 averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31  
40 of the prior calendar year exceeds the monthly averaged index for the period beginning September  
41 1, 2005, and ending August 31, 2006.

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

45 (D) If any adjustment determined under subparagraph (B) of this paragraph is not a multiple of

1 \$50, the adjustment shall be rounded to the next lower multiple of \$50.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 **SECTION 47.** ORS 408.730 is amended to read:

14 408.730. (1) The commander or executive head of any veterans organization organized under a  
15 charter issued by an Act of Congress, proposing to undertake the relief provided for in ORS 408.720,  
16 shall file with the county clerk of the county in which the veterans organization may be situated,  
17 the names of its commander or executive head and its relief committee, if any. The commander or  
18 executive head shall also file a notice in writing that such veterans organization will undertake the  
19 relief of the indigent persons provided for in ORS 408.720, and by the fourth Monday in January of  
20 each year shall file with the county clerk a similar notice, and render and file a detailed statement  
21 of the relief furnished during the preceding year, including the amount thereof, the names of the  
22 persons to whom furnished and on whose recommendation, and such other facts and suggestions as  
23 are deemed material.

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

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

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

43 **SECTION 48.** ORS 418.210 is amended to read:

44 418.210. ORS 418.205 to 418.325 shall not apply to:

45 (1) Homes established and maintained by fraternal organizations wherein only members, their



1 [wives, widows] **spouses and surviving spouses in marriages** and children are admitted as resi-  
2 dents;

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

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

5 (4) Any individual, or home of an individual, providing respite services, as defined in ORS  
6 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056;

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

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

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

12 419B.040. (1) In the case of abuse of a child, the privileges created in ORS 40.230 to 40.255, in-  
13 cluding the psychotherapist-patient privilege, the physician-patient privilege, the privileges extended  
14 to nurses, to staff members of schools and to regulated social workers and the [husband-wife]  
15 **spousal** privilege, shall not be a ground for excluding evidence regarding a child's abuse, or the  
16 cause thereof, in any judicial proceeding resulting from a report made pursuant to ORS 419B.010 to  
17 419B.050.

18 (2) In any judicial proceedings resulting from a report made pursuant to ORS 419B.010 to  
19 419B.050, either spouse shall be a competent and compellable witness against the other.

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

22 432.088. (1) A report of live birth for each live birth that occurs in this state shall be submitted  
23 to the Center for Health Statistics, or as otherwise directed by the State Registrar of the Center for  
24 Health Statistics, within five calendar days after the live birth and shall be registered if the report  
25 has been completed and filed in accordance with this section.

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

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

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

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

43 (A) By an institution where the mother and child are examined, if examination occurs within  
44 24 hours of the live birth;

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (B) Filed with the state registrar.

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

44 (d) In any case in which paternity of a child is determined by a court of competent jurisdiction,  
45 or by an administrative determination of paternity, the Center for Health Statistics shall enter the

1 name of the [*father*] **parent** on the new record of live birth. The Center for Health Statistics shall  
 2 change the surname of the child if so ordered by the court or, in a proceeding under ORS 416.430,  
 3 by the administrator as defined in ORS 25.010.

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

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

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

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

13 **SECTION 51.** ORS 496.146 is amended to read:

14 496.146. In addition to any other duties or powers provided by law, the State Fish and Wildlife  
 15 Commission:

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

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

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

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

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

1 (6) May establish special hunting and angling areas or seasons in which only persons less than  
2 18 years of age or over 65 years of age are permitted to hunt or angle.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (21) May adopt rules establishing a schedule of civil penalties, not to exceed \$6,500 per vio-  
45 lation, for violations of provisions of the wildlife laws or rules adopted by the commission under the

1 wildlife laws. Civil penalties established under this subsection must be imposed in the manner pro-  
 2 vided by ORS 183.745 and must be deposited in the State Wildlife Fund established under ORS  
 3 496.300.

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

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

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

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

19 496.146. In addition to any other duties or powers provided by law, the State Fish and Wildlife  
 20 Commission:

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

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

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

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

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

6 (6) May establish special hunting and angling areas or seasons in which only persons less than  
7 18 years of age or over 65 years of age are permitted to hunt or angle.

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

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

13 (9) May establish and develop wildlife refuge and management areas and prescribe rules gov-  
14 erning the use of such areas and the use of wildlife refuge and management areas established and  
15 developed pursuant to any other provision of law.

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

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

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

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

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

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

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

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

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

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

44 (20) Shall, after consultation with the State Department of Agriculture, adopt rules prohibiting  
45 the use of the World Wide Web, other Internet protocols or broadcast or closed circuit media to

1 remotely control a weapon for the purpose of hunting any game bird, wildlife, game mammal or  
 2 other mammal. The rules may exempt the State Department of Fish and Wildlife or agents of the  
 3 department from the prohibition.

4 (21) May adopt rules establishing a schedule of civil penalties, not to exceed \$6,500 per vio-  
 5 lation, for violations of provisions of the wildlife laws or rules adopted by the commission under the  
 6 wildlife laws. Civil penalties established under this subsection must be imposed in the manner pro-  
 7 vided by ORS 183.745 and must be deposited in the State Wildlife Fund established under ORS  
 8 496.300.

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

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

16 **SECTION 53.** ORS 656.005 is amended to read:

17 656.005. (1) "Average weekly wage" means the Oregon average weekly wage in covered em-  
 18 ployment, as determined by the Employment Department, for the last quarter of the calendar year  
 19 preceding the fiscal year in which the injury occurred.

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

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

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

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

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

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

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

41 (7)(a) A "compensable injury" is an accidental injury, or accidental injury to prosthetic appli-  
 42 ances, arising out of and in the course of employment requiring medical services or resulting in  
 43 disability or death; an injury is accidental if the result is an accident, whether or not due to acci-  
 44 dental means, if it is established by medical evidence supported by objective findings, subject to the  
 45 following limitations:

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

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

8 (b) "Compensable injury" does not include:

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

11 (B) Injury incurred while engaging in or performing, or as the result of engaging in or per-  
12 forming, any recreational or social activities primarily for the worker's personal pleasure; or

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

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

20 (d) A "nondisabling compensable injury" is any injury which requires medical services only.

21 (8) "Compensation" includes all benefits, including medical services, provided for a compensable  
22 injury to a subject worker or the worker's beneficiaries by an insurer or self-insured employer pur-  
23 suant to this chapter.

24 (9) "Department" means the Department of Consumer and Business Services.

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

32 (11) "Director" means the Director of the Department of Consumer and Business Services.

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

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

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

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



1 paragraph, a:

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

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

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

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

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

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

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

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

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

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

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

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

34 (18) “Noncomplying employer” means a subject employer who has failed to comply with ORS  
35 656.017.

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

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

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

45 (22) “Payroll” means a record of wages payable to workers for their services and includes

1 commissions, value of exchange labor and the reasonable value of board, rent, housing, lodging or  
2 similar advantage received from the employer. However, "payroll" does not include overtime pay,  
3 vacation pay, bonus pay, tips, amounts payable under profit-sharing agreements or bonus payments  
4 to reward workers for safe working practices. Bonus pay is limited to payments which are not an-  
5 ticipated under the contract of employment and which are paid at the sole discretion of the em-  
6 ployer. The exclusion from payroll of bonus payments to reward workers for safe working practices  
7 is only for the purpose of calculations based on payroll to determine premium for workers' com-  
8 pensation insurance, and does not affect any other calculation or determination based on payroll for  
9 the purposes of this chapter.

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

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

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

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

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

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

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

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

30 (25) "Self-insured employer" means an employer or group of employers certified under ORS  
31 656.430 as meeting the qualifications set out by ORS 656.407.

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

34 (27) "Subject employer" means an employer who is subject to this chapter as provided by ORS  
35 656.023.

36 (28) "Subject worker" means a worker who is subject to this chapter as provided by ORS  
37 656.027.

38 (29) "Wages" means the money rate at which the service rendered is recompensed under the  
39 contract of hiring in force at the time of the accident, including reasonable value of board, rent,  
40 housing, lodging or similar advantage received from the employer, and includes the amount of tips  
41 required to be reported by the employer pursuant to section 6053 of the Internal Revenue Code of  
42 1954, as amended, and the regulations promulgated pursuant thereto, or the amount of actual tips  
43 reported, whichever amount is greater. The State Accident Insurance Fund Corporation may estab-  
44 lish assumed minimum and maximum wages, in conformity with recognized insurance principles, at  
45 which any worker shall be carried upon the payroll of the employer for the purpose of determining

1 the premium of the employer.

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

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

12 **SECTION 54.** ORS 656.204 is amended to read:

13 656.204. If death results from the accidental injury, payments shall be made as follows:

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

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

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

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

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

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

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

37 (f) In no event shall the total monthly benefits provided for in this subsection exceed 4.35 times  
38 133-1/3 percent of the average weekly wage. If the sum of the individual benefits exceeds this max-  
39 imum, the benefit for each child will be reduced proportionally.

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

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

1 death of the worker shall continue as before.

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

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

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

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

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

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

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

26 (7) If, at the time of the death of a worker, the child of the worker or dependent has become  
27 17 years of age but is under 18 years of age, the child or dependent shall receive the payment pro-  
28 vided in this section for a period of one year from the date of the death. However, if after such  
29 period the child is a full-time high school student, benefits shall be paid as provided in subsection  
30 (8) of this section.

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

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

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

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

3 **SECTION 55.** ORS 656.226 is amended to read:

4 656.226. In case [*an unmarried man and an unmarried woman*] **two unmarried individuals** have  
5 cohabited in this state [*as husband and wife*] **as spouses who are married to each other** for over  
6 one year prior to the date of an accidental injury received by one or the other as a subject worker,  
7 and children are living as a result of that relation, the surviving cohabitant and the children are  
8 entitled to compensation under this chapter the same as if the [*man and woman*] **individuals** had  
9 been legally married.

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

11 659A.309. (1) Except as provided in subsection (2) of this section, it is an unlawful employment  
12 practice for an employer solely because another member of an individual’s family works or has  
13 worked for that employer to:

14 (a) Refuse to hire or employ an individual;

15 (b) Bar or discharge from employment an individual; or

16 (c) Discriminate against an individual in compensation or in terms, conditions or privileges of  
17 employment.

18 (2) An employer is not required to hire or employ and is not prohibited from barring or dis-  
19 charging an individual if such action:

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

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

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

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

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

33 **SECTION 57.** ORS 677.365 is amended to read:

34 677.365. (1) Artificial insemination shall not be performed upon a woman without her prior  
35 written request and consent and, if she is married, the prior written request and consent of her  
36 [*husband*] **spouse**.

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

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

44 (4) If the physician who performs the artificial insemination does not deliver the child conceived  
45 as a result of the use of semen of a donor who is not the woman’s [*husband*] **spouse**, it is the duty

1 of the woman and the [*husband*] **spouse** who consented pursuant to subsection (1) of this section to  
2 give that physician notice of the child's birth. The physician who performs the artificial insemination  
3 shall be relieved of all liability for noncompliance with subsection (2) of this section if the noncom-  
4 pliance results from lack of notice to the physician about the birth.

5 **SECTION 58.** ORS 726.990 is amended to read:

6 726.990. (1) Violation, or participation in the violation, of any provision of this chapter by any  
7 pawnbroker or any agent, member, officer or employee thereof, or any other person is a Class B  
8 misdemeanor.

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

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

15 742.504. Every policy required to provide the coverage specified in ORS 742.502 shall provide  
16 uninsured motorist coverage that in each instance is no less favorable in any respect to the insured  
17 or the beneficiary than if the following provisions were set forth in the policy. However, nothing  
18 contained in this section requires the insurer to reproduce in the policy the particular language of  
19 any of the following provisions:

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

28 (b) No judgment against any person or organization alleged to be legally responsible for bodily  
29 injury, except for proceedings instituted against the insurer as provided in this policy, shall be  
30 conclusive, as between the insured and the insurer, on the issues of liability of the person or or-  
31 ganization or of the amount of damages to which the insured is legally entitled.

32 (2) As used in this policy:

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

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

37 (A) The identity of either the operator or the owner of the hit-and-run vehicle cannot be ascer-  
38 tained;

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

45 (C) At the insurer's request, the insured or the legal representative of the insured makes avail-

1 able for inspection the vehicle the insured was occupying at the time of the accident.

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

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

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

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

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

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

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

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

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

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

28 (A) The identity of either the operator or the owner of the phantom vehicle cannot be ascer-  
29 tained;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (B) A hit-and-run vehicle.

28 (C) A phantom vehicle.

29 (D) A stolen vehicle.

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

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

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

34 (L) "Uninsured vehicle" does not include:

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

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

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

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

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

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



1 member of the household of the insured.

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

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

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

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

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

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

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

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

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

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

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

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

1 to furnish the forms within 15 days after receiving notice of claim.

2 (b) Upon reasonable request of and at the expense of the insurer, the injured person shall submit  
3 to physical examinations by physicians, physician assistants or nurse practitioners selected by the  
4 insurer and shall, upon each request from the insurer, execute authorization to enable the insurer  
5 to obtain medical reports and copies of records.

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

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

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

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

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

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

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

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

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

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

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

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

1 applicable limits of liability of all primary insurance available to the occupant.

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

9 (c) With respect to bodily injury to an insured while occupying any motor vehicle used as a  
10 public or livery conveyance, the insurance under this coverage shall apply only as excess insurance  
11 over any other insurance available to the insured that is similar to this coverage, and this insurance  
12 shall then apply only in the amount by which the applicable limit of liability of this coverage ex-  
13 ceeds the sum of the applicable limits of liability of all other insurance.

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

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

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

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

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

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

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

39 (c) If the insured is injured by the joint or concurrent act or acts of two or more persons, one  
40 or more of whom is uninsured, the insured shall have the election to receive from the insurer any  
41 payment to which the insured would be entitled under this coverage by reason of the act or acts  
42 of the uninsured motorist, or the insured may, with the written consent of the insurer, proceed with  
43 legal action against any or all persons claimed to be liable to the insured for the injuries. If the  
44 insured elects to receive payment from the insurer under this coverage, then the insured shall hold  
45 in trust for the benefit of the insurer all rights of recovery the insured shall have against any other

1 person, firm or organization because of the damages that are the subject of claim made under this  
2 coverage, but only to the extent of the actual payment made by the insurer;

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

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

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

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

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

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

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

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

22 (b) For purposes of this subsection:

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

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

30 **SECTION 60.** ORS 743.027 is amended to read:

31 743.027. A life or health insurance policy upon an individual, except a policy of group life in-  
32 surance or of group or blanket health insurance, may not be made or effectuated unless at the time  
33 of the making of the policy the individual insured, being of competent legal capacity to contract,  
34 applies therefor or has consented thereto in writing, except in the following cases:

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

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

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

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

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

45 (a) Is closely related to the adult by blood or by law or has a substantial interest in the adult

1 engendered by love and affection; and

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

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

5 743A.084. Each policy of health insurance shall provide:

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

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

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