

# Update to Board of County Commissioners

**From:** Public & Government Affairs  
**RE:** HB 3065 -8 amendments (Speaker Kotek amendment on transportation funding)  
**Date:** 5-10-21

**Invitees:** Chair Smith, Vice Chair Savas, Administrator Schmidt, County Counsel Madkour, DTD Director Johnson, DTD Assistant Director Bezner, PGA Director Hildick, PGA Gov't Affairs Manager Lyons

Summary	<p>Over the past two months, Speaker Kotek has been working with key jurisdictional partners to refine her original -5 amendments to HB 3065. These amendments will be “gut and stuffed” into HB 3065 for the purpose of addressing the funding deficiencies of HB 2017 – specifically, that funds are made available to allow ODOT to advance the bottleneck and tolling projects. The county has participated in each of the stakeholder meetings and coordinated closely with Washington County, ODOT, Rep. McLain, and the Speaker’s office.</p>
Department Support	<p><b>PGA/DTD:</b>          The -8 amendments are a vast improvement over the current status quo of HB 2017. Clackamas County put forward many suggestions for improvement based on the BCC’s transportation values, which by and large are reflected in the latest set of amendments. While there are a couple areas that we would prefer to see written differently, the amendments are a consensus product and do not violate the BCC values. Key changes to the language include:</p> <ul style="list-style-type: none"> <li>• The Rose Quarter penny will now be a flexible penny, enabling ODOT to begin construction of I-205 in early 2022.</li> <li>• The bottleneck projects, including I-205, the Rose Quarter, and Boone Bridge, are now called out by name as eligible recipients of the flexible penny.</li> <li>• Language remains flexible, which will allow ODOT to be nimble in its decision making on projects.</li> <li>• Funding decisions will continue to be overseen by ODOT.</li> <li>• Clear dual-purpose of tolling: 1) manage congestion and 2) fund highway improvements</li> </ul> <p>Speaker Kotek has conveyed her hope that both Clackamas and Washington counties will come to a place of full support for the hearing tomorrow.</p>
Staff Recommendation	<p><b>PGA recommends that the BCC support the -8 amendments and continue to vocalize the need to complete both phases of the I-205 bottleneck project per the original intent of HB 2017.</b></p>
Timeline	<p>The bill/amendment has been scheduled for a public hearing at 8am tomorrow, May 11 in the Joint Transportation Committee.</p>

Requested by Representative KOTEK

**PROPOSED AMENDMENTS TO  
HOUSE BILL 3065**

1 In line 2 of the printed bill, after “transportation” insert “; creating new  
2 provisions; amending ORS 366.505, 367.010, 367.095, 367.105, 367.555, 367.560,  
3 367.615, 367.806, 367.816, 381.312, 383.001, 383.003, 383.004, 383.009, 383.014,  
4 383.015, 383.017, 383.035, 383.045, 383.075 and 383.150; repealing ORS 383.006,  
5 383.013, 383.023, 383.065 and 383.155; and prescribing an effective date”.

6 Delete lines 4 through 9 and insert:

7

**“TRANSPORTATION PROJECTS**

8

9

10 **“SECTION 1.** ORS 367.095 is amended to read:

11 “367.095. (1) The following amounts shall be distributed in the manner  
12 prescribed in this section:

13 “(a) The amount attributable to the increase in tax rates by section 45,  
14 chapter 750, Oregon Laws 2017, and the amendments to ORS 319.020 and  
15 319.530 by sections 40 to 43, chapter 750, Oregon Laws 2017.

16 “(b) The amount attributable to the vehicle registration and title fees  
17 imposed under ORS 803.091 and 803.422.

18 “(c) The amount attributable to the increase in taxes and fees by the  
19 amendments to ORS 803.420, 803.645, 818.225, 818.270, 825.476, 825.480 and  
20 826.023 by sections 34, 35, 48, 49, 51, 52, 54, 63, 64, 66, 67 and 70, chapter 750,  
21 Oregon Laws 2017.

1 “(2) The amounts described in subsection (1) of this section shall be dis-  
2 tributed in the following order and for the following purposes:

3 “(a)(A) For calendar years beginning on or after January 1, 2022, \$30  
4 million per year shall be used **to pay** for:

5 “(i) The Interstate 5 Rose Quarter Project;

6 “(ii) **The Interstate 205 Improvements: Stafford Road to Oregon**  
7 **Route 213 Project;**

8 “(iii) **The Interstate 5 Boone Bridge and Seismic Improvement**  
9 **Project; and**

10 “(iv) **The implementation of the toll program established under ORS**  
11 **383.150.**

12 “(B) [*This*] **The amount described in subparagraph (A) of this para-**  
13 **graph** shall be used to pay for [*the Interstate 5 Rose Quarter Project,*] **costs,**  
14 including project costs on a current basis and paying for debt service on  
15 bonds issued to finance the [*project*] **projects or toll program**, only until  
16 the later of the date on which the [*project*] **projects or toll program** is  
17 completed or on which all bonds issued to fund the [*project*] **projects or toll**  
18 **program** have been repaid. Any remaining moneys shall be distributed as  
19 described in subsection (3) of this section.

20 “(b) \$10 million per year shall be deposited into the Safe Routes to  
21 Schools Fund for the purpose of providing Safe Routes to Schools matching  
22 grants under ORS 184.742. The remainder of the moneys shall be distributed  
23 as described in subsection (3) of this section.

24 “(3) The moneys described in subsection (1) of this section that remain  
25 after the allocation of moneys described in subsection (2) of this section shall  
26 be allocated as follows:

27 “(a) 50 percent to the Department of Transportation.

28 “(b) 30 percent to counties for distribution as provided in ORS 366.762.

29 “(c) 20 percent to cities for distribution as provided in ORS 366.800.

30 “(4) The moneys described in subsection (3)(a) of this section or equiv-

1 alent amounts that become available to the Department of Transportation  
2 shall be allocated as follows:

3 “(a) \$10 million for safety.

4 “(b) Of the remaining balance:

5 “(A) Forty percent for bridges.

6 “(B) Thirty percent for seismic improvements related to highways and  
7 bridges.

8 “(C) Twenty-four percent for state highway pavement preservation and  
9 culverts.

10 “(D) Six percent for state highway maintenance and safety improvements.

11 **“SECTION 2.** ORS 367.095, as amended by section 47, chapter 491, Oregon  
12 Laws 2019, is amended to read:

13 “367.095. (1) The following amounts shall be distributed in the manner  
14 prescribed in this section:

15 “(a) The amount attributable to the increase in tax rates by section 45,  
16 chapter 750, Oregon Laws 2017, and the amendments to ORS 319.020 and  
17 319.530 by sections 40 to 43, chapter 750, Oregon Laws 2017.

18 “(b) The amount attributable to the vehicle registration and title fees  
19 imposed under ORS 803.091 and 803.422.

20 “(c) The amount attributable to the increase in taxes and fees by the  
21 amendments to ORS 803.420, 803.645, 818.225, 825.476, 825.480 and 826.023 by  
22 sections 34, 35, 48, 49, 51, 52, 63, 64, 66, 67 and 70, chapter 750, Oregon Laws  
23 2017.

24 “(2) The amounts described in subsection (1) of this section shall be dis-  
25 tributed in the following order and for the following purposes:

26 “(a)(A) \$30 million per year shall be used **to pay** for:

27 “(i) The Interstate 5 Rose Quarter Project;

28 “(ii) **The Interstate 205 Improvements: Stafford Road to Oregon**  
29 **Route 213 Project;**

30 “(iii) **The Interstate 5 Boone Bridge and Seismic Improvement**

1 **Project; and**

2 **“(iv) The implementation of the toll program established under ORS**  
3 **383.150.**

4 **“(B) [This] The amount described in subparagraph (A) of this para-**  
5 **graph** shall be used to pay for [*the Interstate 5 Rose Quarter Project*] **costs,**  
6 including project costs on a current basis and paying for debt service on  
7 bonds issued to finance the [*project*] **projects or toll program,** only until  
8 the later of the date on which the [*project*] **projects or toll program** is  
9 completed or on which all bonds issued to fund the [*project*] **projects or toll**  
10 **program** have been repaid. Any remaining moneys shall be distributed as  
11 described in subsection (3) of this section.

12 **“(b) \$15 million per year shall be deposited into the Safe Routes to**  
13 **Schools Fund for the purpose of providing Safe Routes to Schools matching**  
14 **grants under ORS 184.742. The remainder of the moneys shall be distributed**  
15 **as described in subsection (3) of this section.**

16 **“(3) The moneys described in subsection (1) of this section that remain**  
17 **after the allocation of moneys described in subsection (2) of this section shall**  
18 **be allocated as follows:**

19 **“(a) 50 percent to the Department of Transportation.**

20 **“(b) 30 percent to counties for distribution as provided in ORS 366.762.**

21 **“(c) 20 percent to cities for distribution as provided in ORS 366.800.**

22 **“(4) The moneys described in subsection (3)(a) of this section or equiv-**  
23 **alent amounts that become available to the Department of Transportation**  
24 **shall be allocated as follows:**

25 **“(a) \$10 million for safety.**

26 **“(b) Of the remaining balance:**

27 **“(A) Forty percent for bridges.**

28 **“(B) Thirty percent for seismic improvements related to highways and**  
29 **bridges.**

30 **“(C) Twenty-four percent for state highway pavement preservation and**

1 culverts.

2 “(D) Six percent for state highway maintenance and safety improvements.

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4

### “SHORT-TERM BORROWING

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6 “**SECTION 3.** ORS 367.105 is amended to read:

7 “367.105. (1) In addition to the authority for short-term borrowing granted  
8 in ORS 286A.025 (2)(d) and 286A.045, the Department of Transportation, act-  
9 ing through the State Treasurer, may borrow money by entering into a credit  
10 agreement, a line of credit or a revolving line of credit, or by issuing a note,  
11 a warrant, a short-term promissory note, commercial paper or another simi-  
12 lar obligation, for the following purposes:

13 “(a) Providing matching funds as set forth in ORS 366.564.

14 “(b) Providing funds with which to pay when due the principal or interest  
15 of bonded indebtedness created for highway purposes, the payment of which  
16 is necessary to preserve the financial credit of the state.

17 “(c) Meeting emergencies.

18 “(d) Providing funds for use by the department during times when ex-  
19 penditures exceed revenues, whether or not the department anticipated that  
20 expenditures would exceed revenues.

21 “(e) Providing funds for the payment of current expenses in anticipation  
22 of revenue, grants or other moneys intended for payment of the current ex-  
23 penses.

24 “(f) Providing funds for interim financing of a capital asset or project to  
25 be undertaken by the department.

26 “(g) Refunding an outstanding obligation.

27 “(2) Short-term borrowing under this section may be in such denomi-  
28 nations or for such sums as the department fixes and may draw interest at  
29 a negotiated rate.

30 “(3) The total outstanding indebtedness created by the short-term bor-

1 rowing under this section may not exceed [~~\$100~~] **\$600** million in outstanding  
2 principal amount.

3 “(4) All short-term borrowing issued pursuant to this section shall mature  
4 within [~~three~~] **five** years from the date of issuance. **This subsection does**  
5 **not apply to refunding revenue bonds issued under subsection (5) of**  
6 **this section.**

7 “(5) **The State Treasurer may issue refunding revenue bonds to re-**  
8 **fund outstanding short-term borrowings issued under this section.**

9 “[~~(5) The department shall pay for and secure short-term borrowing under~~  
10 ~~this section with funds from the State Highway Fund or other funds that are~~  
11 ~~legally available to the department for the purposes for which the moneys were~~  
12 ~~borrowed, including moneys received by the department from the United States~~  
13 ~~government.]~~

14 “(6) **Using funds from the State Highway Fund or other funds that**  
15 **are legally available to the department or State Treasurer for the**  
16 **purposes for which the moneys were borrowed, including moneys re-**  
17 **ceived by the department or State Treasurer from the United States**  
18 **government:**

19 “(a) **The department shall pay for and secure short-term borrowing**  
20 **under this section; and**

21 “(b) **The department shall pay for any refunding revenue bonds is-**  
22 **sued under this section.**

23 “(7) ORS 286A.035 does not apply to borrowings under this section.

24

25

#### “TOLLING

26

27 “**SECTION 4. ORS 383.001 is added to and made a part of ORS 383.003**  
28 **to 383.075.**

29 “**SECTION 5. ORS 383.001 is amended to read:**

30 “383.001. The Legislative Assembly finds that:

1       “(1) The development, improvement, expansion and maintenance of an ef-  
2       ficient, safe and well-maintained system of roads, highways and other trans-  
3       portation facilities is essential to the economic well-being and high quality  
4       of life of the people of this state.

5       “(2) Public sources of revenues, including federal funding, to provide an  
6       efficient transportation system have not kept pace with the state’s growing  
7       population and growing transportation needs, and all available alternative  
8       sources of funding should be utilized to supplement available public sources  
9       of revenues.

10       “(3) Because public funding sources are not providing the state with suf-  
11       ficient funds to meet all of its transportation needs, private funding should  
12       be encouraged as an additional source of funding for transportation projects  
13       and facilities.

14       “(4) Various alternatives for utilizing the funds of private entities in the  
15       acquisition, design, construction, reconstruction, operation and maintenance  
16       of transportation facilities exist, including arrangements whereby private  
17       entities obtain exclusive agreements to design, build, own, lease or operate  
18       with private funds all or a portion of transportation projects and facilities  
19       in exchange for the right to receive certain revenues generated from the  
20       operation and utilization of such transportation projects and facilities.

21       “(5) Another important alternative for the funding of transportation fa-  
22       cilities is the use of federal funds pursuant to 23 U.S.C. 129(a), as amended  
23       by section 112 of the Intermodal Surface Transportation Efficiency Act of  
24       1991, which established a program authorizing federal participation in con-  
25       struction of publicly or privately owned toll highways, bridges and tunnels.

26       “(6) The federal legislation allows for a mix of federal funding and private  
27       funding of transportation facilities, allowing the states to leverage available  
28       federal funds as a means for attracting private capital.

29       “(7) Legislation for the utilization of private funding of transportation  
30       facilities should be flexible enough to permit the Department of Transporta-



1 tion to obtain the advantages of any available alternative under which the  
2 acquisition, design, construction, reconstruction, operation, maintenance and  
3 repair of transportation facilities can be financed in whole or in part or in  
4 combination by any available sources of private or public funding.

5 “(8) The funding of transportation facilities through the imposition of  
6 tolls on those who use such facilities is a fair and impartial means of as-  
7 sessing the costs of improvements against those who most benefit from such  
8 improvements, and is consistent with public policy.

9 “(9) Joint endeavors of public and private entities do the following:

10 “(a) Take advantage of private sector efficiencies in designing, con-  
11 structing and operating transportation projects.

12 “(b) Allow for the rapid formation of capital necessary for funding  
13 transportation projects.

14 “(c) Require continued compliance with environmental requirements and  
15 applicable state and federal laws that all publicly financed projects must  
16 address.

17 “(10) **Significant traffic congestion adversely impacts Oregon’s**  
18 **economy and the quality of life of Oregon’s communities. Where ap-**  
19 **propriate, variable rate tolls should be applied to reduce traffic con-**  
20 **gestion and support the state’s greenhouse gas emissions reduction**  
21 **goals.**

22 “**SECTION 6.** ORS 383.003 is amended to read:

23 “383.003. As used in ORS 383.003 to 383.075:

24 “(1) ‘Department’ means the Department of Transportation.

25 “[2) ‘*Electronic toll collection system*’ means a system that records use of  
26 a tollway by electronic transmissions to or from the vehicle using the tollway  
27 and that collects tolls, or that is capable of charging an account established  
28 by a person for use of the tollway.]

29 “[3) ‘*Photo enforcement system*’ means a system of sensors installed to work  
30 in conjunction with an electronic toll collection system and other traffic control

1 *devices and that automatically produces videotape or one or more photographs,*  
2 *microphotographs or other recorded images of a vehicle in connection with the*  
3 *collection or enforcement of tolls.]*

4 “(2) **‘Electronic toll collection system’ means a system for collecting**  
5 **tolls that:**

6 “(a) **Does not require a vehicle to stop at a toll booth to pay the toll;**  
7 **and**

8 “(b) **Uses transponder readers and license plate capture cameras to**  
9 **aid in collecting tolls.**

10 “[4] (3) **‘Private entity’ means any nongovernmental entity, including a**  
11 **corporation, partnership, company or other legal entity, or any natural per-**  
12 **son.**

13 “[5] (4) **‘Related facility’ means any real or personal property that:**

14 “(a) **Will be used to operate, maintain, renovate or facilitate the use of**  
15 **the tollway;**

16 “(b) **Will provide goods or services to the users of the tollway; or**

17 “(c) *[Can be developed efficiently when tollways are developed and]* **Will**  
18 **generate revenue that may be used to reduce tolls or will be deposited in the**  
19 ***[State Tollway Account]* Toll Program Fund.**

20 “[6] (5) **‘Toll’ means any fee or charge for the use of a tollway.**

21 “[7] **‘Toll booth collections’ means the manual or mechanical collection of**  
22 **cash or charging of an account at a toll plaza, toll booth or similar fixed toll**  
23 **collection facility.]**

24 “[8] (6) **‘Tollway’ means any roadway, path, highway, bridge, tunnel,**  
25 **railroad track, bicycle path or other paved surface or structure specifically**  
26 **designed as a land vehicle transportation route for the use of which tolls**  
27 **are assessed***[, the construction, operation or maintenance of which is wholly*  
28 *or partially funded with toll revenues resulting from an agreement under ORS*  
29 *383.005].*

30 “[9] (7) **‘Tollway operator’ means the unit of government or the private**

1 entity that is responsible for **all or any portion of** the construction, recon-  
2 struction, [*installation,*] improvement, financing, maintenance, repair and  
3 operation of a tollway or a related facility.

4 “[~~(10)~~] **(8)** ‘Tollway project’ means any capital project involving the [*ac-*  
5 *quisition of land for, or the construction, reconstruction, improvement, instal-*  
6 *lation,*] development, **operation** or equipping of[,] a tollway, related facilities  
7 or any portion thereof.

8 **“(9) ‘Tollway project revenue bonds’ means revenue bonds desig-**  
9 **ned as tollway project revenue bonds under section 19 of this 2021**  
10 **Act.**

11 “[~~(11)~~] **(10)** ‘Unit of government’ means any department or agency of the  
12 federal government, any state, any department or agency of a state, any  
13 bistate entity created by agreement under ORS 190.420 or other law for the  
14 purposes of the Interstate 5 bridge replacement project, and any city, county,  
15 district, port or other public corporation organized and existing under stat-  
16 utory law or under a voter-approved charter.

17 **“SECTION 7.** ORS 383.004 is amended to read:

18 “383.004. (1) Except as provided in subsection (2) of this section, a toll  
19 may not be established unless the Oregon Transportation Commission has  
20 reviewed and approved the toll. The commission shall adopt rules specifying  
21 the process under which proposals to establish tolls will be reviewed. When  
22 reviewing a proposal to establish tolls, the commission shall take into con-  
23 sideration:

24 “(a) The amount and classification of the traffic using, or anticipated to  
25 use, the tollway;

26 “(b) The amount of the toll proposed to be established for each class or  
27 category of tollway user and, if applicable, the different amounts of the toll  
28 depending on time and day of use;

29 “(c) The extent of the tollway, including improvements necessary for  
30 tollway operation and improvements necessary to support the flow of traffic

1 onto or off of the tollway;

2 “(d) The location of [*toll plazas or toll collection devices*] **toll booths or**  
3 **electronic toll collection systems** to collect the toll for the tollway;

4 “(e) The cost of constructing, reconstructing, improving, installing,  
5 maintaining, repairing and operating the tollway;

6 “(f) The amount of indebtedness incurred for the construction of the  
7 tollway and **all expenses and obligations related to the indebtedness**  
8 **including, without limitation, financial covenants,** debt service require-  
9 **ments, reserve requirements and any other funding requirements es-**  
10 **tablished under the terms of any indenture prepared under section 22**  
11 **of this 2021 Act and any other contracts establishing the terms of the**  
12 **indebtedness, if any;**

13 “(g) The value of assets, equipment and services required for the opera-  
14 tion of the tollway;

15 “(h) The period of time during which the toll will be in effect;

16 “(i) The process for altering the amount of the toll during the period of  
17 operation of the tollway;

18 “(j) The method of collecting the toll; and

19 “(k) The rate of return that would be fair and reasonable for a private  
20 equity holder, if any, in the tollway.

21 “(2)(a) Nothing in ORS 383.003 to 383.075 prohibits a city or county from  
22 establishing a toll on any highway, as defined in ORS 801.305, that the city  
23 or county has jurisdiction over as a road authority pursuant to ORS 810.010.

24 “(b) Nothing in ORS 383.003 to 383.075 prohibits Multnomah County from  
25 establishing a toll on the bridges across the Willamette River that are within  
26 the boundaries of the City of Portland and that are operated and maintained  
27 by Multnomah County as required under ORS 382.305 and 382.310.

28 “**SECTION 8.** ORS 383.009 is amended to read:

29 “383.009. (1) There is hereby established the [*State Tollway Account*] **Toll**  
30 **Program Fund** as a separate [*account*] **and distinct fund** [*within*] **from** the

1 [State Highway Fund] **General Fund**. The [State Tollway Account] **Toll**  
2 **Program Fund** shall consist of:

3 “(a) All moneys and revenues received by the Department of Transporta-  
4 tion from or made available by the federal government to the department for  
5 any tollway project or for the operation or maintenance of any tollway;

6 “(b) Any moneys received by the department from any other unit of gov-  
7 ernment or any private entity for a tollway project or from the operation or  
8 maintenance of any tollway;

9 “(c) All moneys and revenues received by the department from any  
10 **agreement entered into or** loan made by the department for a tollway  
11 project pursuant to ORS 383.005, and from any lease, agreement, franchise  
12 or license for the right to the possession and use, operation or management  
13 of a tollway project;

14 “(d) All tolls and other revenues received by the department **or tollway**  
15 **operator** from the users of any tollway project;

16 “(e) The proceeds of any bonds authorized to be issued for tollway  
17 projects;

18 “(f) Any moneys that the department has legally transferred from the  
19 State Highway Fund to the [State Tollway Account] **Toll Program Fund** for  
20 tollway projects;

21 “(g) All moneys and revenues received by the department from all other  
22 sources that by **gift, bequest, donation, grant, contract or law from any**  
23 **public or private source are for deposit in the Toll Program Fund** [*are*  
24 *allocated or dedicated for tollway projects*];

25 “(h) All interest earnings on investments made from any of the moneys  
26 held in the [State Tollway Account] **Toll Program Fund**; [*and*]

27 “(i) All civil penalties and administrative fees paid to the department  
28 from the enforcement of tolls[.];

29 “(j) **Fees paid to the department for information provided under**  
30 **ORS 383.075;**

1       “(k) Moneys appropriated for deposit in or otherwise transferred to  
2 the Toll Program Fund by the Legislative Assembly; and

3       “(L) Moneys received from federal sources or other state or local  
4 sources, excluding proceeds of Highway User Tax Bonds issued under  
5 ORS 367.615 that finance projects other than toll projects.

6       “(2) Moneys in the [*State Tollway Account*] **Toll Program Fund** may be  
7 used by the department for the following purposes:

8       “(a) To finance preliminary studies and reports for any tollway project;

9       “(b) To acquire land to be owned by the state for tollways and any related  
10 facilities therefor;

11       “(c) To finance the construction, renovation, operation, improvement,  
12 maintenance or repair of any tollway project;

13       “(d) To make grants or loans to a unit of government for tollway projects;

14       “(e) To make loans to private entities for tollway projects;

15       “(f) To pay the principal, interest and premium due with respect to, and  
16 to pay the costs connected with the issuance or ongoing administration of,  
17 any bonds or other financial obligations authorized to be issued by, or the  
18 proceeds of which are received by, the department for any tollway project,  
19 **including capitalized interest and any rebates or penalties due to the**  
20 **United States in connection with the bonds;**

21       “(g) To provide a guaranty or other security for any bonds or other fi-  
22 nancial obligations, including but not limited to financial obligations with  
23 respect to any bond insurance, surety or credit enhancement device issued  
24 or incurred by the department, a unit of government or a private entity, for  
25 the purpose of financing a single tollway project or any related group or  
26 system of [*tollways*] **tollway projects** or related facilities; [*and*]

27       “(h) To pay the costs incurred by the department in connection with its  
28 oversight, operation and administration of the [*State Tollway Account*] **Toll**  
29 **Program Fund**, the proposals and projects submitted under ORS 383.015 and  
30 the tollway projects financed under ORS 383.005[.];

1       “(i) To develop, implement and administer the toll program estab-  
2 lished under ORS 383.150, including the cost of consultants, advisors,  
3 attorneys or other professional service providers appointed, retained  
4 or approved by the department; and

5       “(j) To make improvements or fund efforts on the tollway and on  
6 adjacent, connected or parallel highways to the tollway to reduce  
7 traffic congestion, improve safety and reduce impacts of diversion as  
8 a result of a tollway project.

9       “(3) For purposes of paying or securing bonds or providing a guaranty,  
10 surety or other security authorized by [subsection (2)(g) of] this section, the  
11 department may:

12       “(a) Irrevocably pledge all or any portion of the amounts that are credited  
13 to, or are required to be credited to, the [State Tollway Account] **Toll Pro-**  
14 **gram Fund;**

15       “(b) Establish subaccounts in the [State Tollway Account] **Toll Program**  
16 **Fund**, and make covenants regarding the credit to and use of amounts in  
17 those [accounts and] subaccounts; and

18       “(c) Establish separate trust funds or accounts and make covenants to  
19 transfer to those separate trust funds or accounts all or any portion of the  
20 amounts that are required to be deposited in the [State Tollway Account]  
21 **Toll Program Fund.**

22       “(4) Notwithstanding any other provision of ORS 383.001 to 383.075, the  
23 department shall not pledge any funds or amounts at any time held in the  
24 [State Tollway Account] **Toll Program Fund** as security for the obligations  
25 of a **unit of government or a** private entity unless the department has en-  
26 tered into a binding and enforceable agreement that provides the department  
27 reasonable assurance that the department will be repaid, with appropriate  
28 interest, any amounts that the department is required to advance pursuant  
29 to that pledge.

30       “(5) Moneys in the [State Tollway Account] **Toll Program Fund** are

1 continuously appropriated to the department for purposes authorized by this  
2 section.

3 **“(6) Notwithstanding subsection (1) of this section, a city, county,**  
4 **district, port or other public corporation organized and existing under**  
5 **statutory law or under a voter-approved charter is not required to**  
6 **deposit into the Toll Program Fund tolls, or other revenues are re-**  
7 **ceived from the users of any tollway, that are assessed by a city,**  
8 **county, district, port or other public corporation organized and exist-**  
9 **ing under statutory law or under a voter-approved charter.**

10 **“(7) Moneys in the Toll Program Fund that are transferred from the**  
11 **State Highway Fund or are derived from any revenues under Article**  
12 **IX, section 3a, of the Oregon Constitution, may be used only for pur-**  
13 **poses permitted by Article IX, section 3a, of the Oregon Constitution.**

14 **“SECTION 9. The Toll Program Fund is a continuation of the State**  
15 **Tollway Account. Moneys contained in the State Tollway Account on**  
16 **the effective date of this 2021 Act are considered to be moneys in the**  
17 **Toll Program Fund.**

18 **“SECTION 10. ORS 383.155 is repealed.**

19 **“SECTION 11. (1) The Congestion Relief Fund, established under**  
20 **ORS 383.155, is abolished.**

21 **“(2) Any moneys remaining in the Congestion Relief Fund on the**  
22 **effective date of this 2021 Act that are unexpended, unobligated and**  
23 **not subject to any conditions shall be transferred to the Toll Program**  
24 **Fund established under ORS 383.009.**

25 **“SECTION 12. ORS 383.014 is amended to read:**

26 **“383.014. [***The Oregon Transportation Commission shall set standards by*  
27 *rule for electronic toll collection systems and photo enforcement systems used*  
28 *on tollways in this state to ensure that systems used in Oregon and systems*  
29 *used in the State of Washington are compatible to the extent technology per-*  
30 *mits.] **The Oregon Transportation Commission shall establish criteria***



1 **when selecting electronic toll collection systems used in this state to**  
2 **ensure interoperability with tolling systems used in other states, to**  
3 **the extent that technology facilitating interoperability exists.**

4 **“SECTION 13.** ORS 383.017 is amended to read:

5 *“383.017. [(1) The Department of Transportation may award any contract,*  
6 *franchise, license or agreement related to a tollway project, other than a con-*  
7 *cession for the provision of goods or services at a rest area, under a competitive*  
8 *process or by private negotiation with one or more entities, or by any combi-*  
9 *nation of competition and negotiation without regard to any other laws con-*  
10 *cerning the procurement of goods or services for projects of the state.]*

11 *“[(2) When using a competitive process for the award of a tollway project*  
12 *contract, the department shall consider the following factors in addition to the*  
13 *proposer’s estimate of cost:]*

14 *“[(a) The quality of the design, if applicable, submitted by a proposer. In*  
15 *considering the quality of the design of a tollway project, the department shall*  
16 *take into consideration:]*

17 *“[(A) The structural integrity of the design, including the probable effect*  
18 *of the design on the future costs of maintenance of the tollway;]*

19 *“[(B) The aesthetic qualities of the design, including such factors as the*  
20 *width of lane separators, landscaping and sound walls;]*

21 *“[(C) The traffic capacity of the design;]*

22 *“[(D) The aspects of the design that affect safety, such as the lane width,*  
23 *the quality of lane markers and separators, the shape and positioning of ramps*  
24 *and curves and the changes in elevation; and]*

25 *“[(E) The ease with which traffic will be able to pass through the toll col-*  
26 *lection facilities.]*

27 *“[(b) The extent to which small businesses will be involved in the tollway*  
28 *project. The department shall encourage participation by small businesses to*  
29 *the maximum extent the department determines is practicable. As used in this*  
30 *paragraph, ‘small business’ means an independent business with fewer than*

1 20 employees and with average annual gross receipts over the last three years  
2 not exceeding \$1 million for construction firms and \$300,000 for noncon-  
3 struction firms. ‘Small business’ does not include a subsidiary or parent com-  
4 pany belonging to a group of firms that are owned and controlled by the same  
5 individuals and that have average aggregate annual gross receipts in excess  
6 of \$1 million for construction firms or \$300,000 for nonconstruction firms over  
7 the last three years.]

8 “[c) The financial stability of the proposer and the ability of the proposer  
9 to provide funding for the tollway project and surety for its performance and  
10 financial obligations with respect to the tollway project.]

11 “[d) The experience of the proposer and its subcontractors in building and  
12 operating projects such as the tollway project.]

13 “[e) The terms of the financial arrangement proposed or accepted by the  
14 proposer with respect to franchise fees, license fees, lease payments or operating  
15 expenses and the proposer’s required rate of return from its operation or  
16 maintenance of the tollway.]

17 “[3)(a) The department may adopt rules and procedures for the award of  
18 franchises, licenses, leases or other concessions for rest areas without regard  
19 to any other laws concerning the procurement of goods or services for projects  
20 of the state. All such franchises, licenses, leases or other concessions shall re-  
21 quire the franchisee, licensee, lessee or concessionaire, as applicable, to main-  
22 tain the subject premises in accordance with all applicable state and federal  
23 health and safety standards, to maintain one or more policies of casualty and  
24 property insurance and adequate workers’ compensation insurance, and to pay  
25 and discharge all taxes, utilities, fees and other charges or claims that are  
26 levied, assessed or charged against the premises or concession or that may be-  
27 come a lien upon the premises. The rules shall encourage participation by  
28 small businesses to the maximum extent the department determines is practi-  
29 cable. The department may grant any small business a 10 percent or greater  
30 bid advantage in any bidding process for a concession.]

1       “[(b) As used in this subsection, ‘small business’ means an independent  
2 business with fewer than 20 employees and with average annual gross receipts  
3 over the last three years not exceeding \$300,000. ‘Small business’ does not in-  
4 clude a subsidiary or parent company belonging to a group of firms that are  
5 owned and controlled by the same individuals and that have average aggregate  
6 annual gross receipts in excess of \$300,000 over the last three years. ‘Small  
7 business’ also does not include a franchise of any business that has average  
8 aggregate annual gross receipts in excess of \$300,000 over the last three  
9 years.]

10       “[(4) Notwithstanding any other provision of this section, the department  
11 may use any method for the award of any contract, franchise, license or  
12 agreement that is necessary to comply with the requirements of any grant or  
13 other funding source.]

14       “[(5) If public funds are involved in the project, construction of a tollway  
15 project shall be subject to the prevailing wage requirements of ORS 279C.800  
16 to 279C.870.]

17       “[(6) For purposes of complying with applicable state and local land use  
18 laws, including statewide planning goals, comprehensive plans, land use reg-  
19 ulations, ORS chapters 195, 196, 197, 198, 199, 215, 221, 222 and 227, and any  
20 requirement imposed by the Land Conservation and Development Commission,  
21 a tollway project shall be treated as a project of the department and not as a  
22 project of any other person or entity.]

23       “[(7)] (1) Tollways, and any related facilities that would normally be  
24 purchased, constructed or installed by the Department **of Transportation**  
25 if the tollway were a conventional highway that was constructed and oper-  
26 ated by the department, shall be exempt from ad valorem property taxation.

27       “[(8)] (2) Tollways are considered state highways for purposes of law  
28 enforcement and application of the Oregon Vehicle Code.

29       “**SECTION 14.** ORS 383.035 is amended to read:

30       “383.035. (1) **A person shall pay a toll established under ORS 383.004.**

1       “[(1)] **(2)** A person who fails to pay a toll[,] established [*pursuant to*]  
2 **under** ORS 383.004[,] shall pay to the Department of Transportation the  
3 amount of the toll, a civil penalty [*of not more than \$25*] and an administra-  
4 tive fee established by the tollway operator not to exceed the actual cost of  
5 collecting the unpaid toll. **The department shall adopt by rule the**  
6 **amount of civil penalty that may be imposed for each violation of**  
7 **subsection (1) of this section.**

8       “**(3)** A civil penalty imposed under this section may be remitted or  
9 **reduced upon such terms and conditions as the department considers**  
10 **proper and consistent.**

11       “[(2)] **(4)** In addition to any other penalty, the department shall refuse to  
12 renew the motor vehicle registration of [*the*] **a motor vehicle** [*owned by a*  
13 *person who*] **when the registered owner of the motor vehicle** has not paid  
14 the toll, the civil penalty and any administrative fee charged under this  
15 section.

16       “[(3)] **(5)** This section does not apply to:

17       “[(a) *A person operating a vehicle owned by a unit of government or the*  
18 *tollway operator;*]

19       “[(b)] **(a)** A person who is a member of a category of persons exempted  
20 by the Oregon Transportation Commission from paying a toll; or

21       “[(c)] **(b)** A person who is a member of a category of persons made eligible  
22 by the commission for paying a reduced toll, to the extent of the reduction.

23       “[(4) *Subsection (1) of this section does not apply to a person who fails to*  
24 *pay a toll established under section 8, chapter 4, Oregon Laws 2013.*]

25       “[(5)(a) *Upon receiving a request from the State of Washington, or from the*  
26 *State of Washington’s designee that has contracted with the State of*  
27 *Washington to collect tolls, the department shall provide information to iden-*  
28 *tify registered owners of vehicles who fail to pay a toll established under sec-*  
29 *tion 8, chapter 4, Oregon Laws 2013.*]

30       “[(b) *If the State of Washington, or the State of Washington’s designee that*

1 *has contracted with the State of Washington to collect tolls, gives notice to the*  
2 *department that a person has not paid a toll established under section 8,*  
3 *chapter 4, Oregon Laws 2013, or a civil penalty or administrative fee imposed*  
4 *by reason of failure to pay the toll, the department shall refuse to renew the*  
5 *Oregon motor vehicle registration of the motor vehicle operated by the person*  
6 *at the time of the violation.]*

7 “[(c) *The department may renew an Oregon motor vehicle registration of a*  
8 *person described in paragraph (b) of this subsection upon receipt of a notice*  
9 *from the State of Washington, or from the State of Washington’s designee,*  
10 *indicating that all tolls, civil penalties and other administrative fees owed by*  
11 *the person have been paid.]*

12 “(6) **Civil penalties imposed under this section shall be imposed in**  
13 **the manner provided by ORS 183.745.**

14 “**SECTION 15.** ORS 383.045 is amended to read:

15 “383.045. (1) **A recorded image produced by an electronic toll col-**  
16 **lection system shall capture only images of a vehicle and the license**  
17 **plate of the vehicle.**

18 “[1] (2) Except as provided in subsection [(2)] (3) of this section, a re-  
19 corded image of a vehicle and the [registration] **license** plate of the vehicle  
20 produced by [a photo enforcement] **an electronic toll collection** system at  
21 the time the driver of the vehicle did not pay a toll shall be prima facie ev-  
22 idence that the registered owner of the vehicle is the driver of the vehicle.

23 “[2] (3) If the registered owner of a vehicle is a person in the vehicle  
24 rental or leasing business, the registered owner may elect to identify the  
25 person who was operating the vehicle at the time the toll was not paid or  
26 to pay the toll, civil penalty and administrative fee.

27 “[3] (4) A registered owner of a vehicle who pays the toll, civil penalty  
28 and administrative fee is entitled to recover the same from the driver, renter  
29 or lessee of the vehicle.

30 “**SECTION 16.** ORS 383.075 is amended to read:

1 “383.075. (1) Except as provided in subsections (2) and (3) of this section,  
2 records and information used to collect and enforce tolls are exempt from  
3 disclosure under public records law and are to be used solely for toll col-  
4 lection [*and traffic management by the Department of Transportation*].

5 “(2) Information collected or maintained by an electronic toll collection  
6 system may not be disclosed to anyone except:

7 “(a) The owner of an account that is charged for the use of a tollway;

8 “(b) A **collection agency, as defined in ORS 697.005, a payment**  
9 **processor as defined by the Department of Transportation by rule, an**  
10 **agency, as defined in ORS 183.310, or a financial institution, as necessary**  
11 **to collect tolls owed;**

12 “(c) Employees of the department;

13 “(d) The tollway operator and authorized employees of the operator;

14 “(e) A law enforcement officer who is acting in the officer’s official ca-  
15 pacity in connection with toll enforcement; [*and*]

16 “(f) An administrative law judge or court in an action or proceeding in  
17 relation to unpaid tolls or administrative fees or civil penalties related to  
18 unpaid tolls[.]; **and**

19 “(g) **As requested for use in any civil, criminal or other legal pro-**  
20 **ceeding or investigation that relates to the use of a tollway.**

21 “(3) Information collected or maintained by a photo enforcement system  
22 may not be disclosed to anyone except:

23 “(a) The registered owner [*or apparent driver*] of the vehicle;

24 “(b) Employees of the department;

25 “(c) The tollway operator and authorized employees of the operator;

26 “(d) A law enforcement officer who is acting in the officer’s official ca-  
27 pacity in connection with toll enforcement; and

28 “(e) An administrative law judge or court in an action or proceeding in  
29 relation to unpaid tolls or administrative fees or civil penalties related to  
30 unpaid tolls.

1       “(4) The department may charge a reasonable fee under ORS 192.324  
2 for providing information under this section.

3       “(5) The department may adopt rules specifying conditions that  
4 must be met by a person or unit of government requesting information  
5 under this section. Conditions may include but are not limited to:

6       “(a) Providing reasonable assurance of the identity of the requester;

7       “(b) Providing reasonable assurance of the uses to which the infor-  
8 mation will be put, if applicable;

9       “(c) Showing that the person whose information is to be disclosed  
10 has given permission for the disclosure, if permission is required; and

11       “(d) Submitting a written request for the information in a form  
12 prescribed by the department.

13       “SECTION 17. ORS 383.150 and sections 19 to 24 and 35 of this 2021  
14 Act are added to and made a part of ORS 383.003 to 383.075.

15       “SECTION 18. ORS 383.150 is amended to read:

16       “383.150. (1) The Oregon Transportation Commission shall establish a  
17 [*traffic congestion relief program*] **toll program.**

18       “[(2) *No later than December 31, 2018, the commission shall seek approval*  
19 *from the Federal Highway Administration, if required by federal law, to im-*  
20 *plement value pricing as described in this section.*]

21       “[(3)] **(2) As part of the toll program,** after seeking and receiving ap-  
22 proval from the Federal Highway Administration, the commission [*shall im-*  
23 *plement value pricing to reduce traffic congestion*] **may assess variable rate**  
24 **tolls.** [*Value pricing*] **Tolling** may include, but is not limited to **assessing**  
25 **variable rate tolls for the purpose of:** [*variable time-of-day pricing.*]

26       “(a) **Managing congestion; and**

27       “(b) **Partially or wholly funding the construction, operation or**  
28 **maintenance of a highway.**

29       “(3) The commission shall [*implement value pricing*] **assess tolls** in the  
30 following locations:

1       “(a) On Interstate 205, beginning at the Washington state line and ending  
2 where it intersects with Interstate 5 in this state.

3       “(b) On Interstate 5, beginning at the Washington state line and ending  
4 where it intersects with Interstate 205.

5       “[(4) *In addition to areas listed in subsection (3) of this section, the com-  
6 mission may implement value pricing in other areas of this state.*]

7       “[(5) *Notwithstanding ORS 383.009, the revenues received from value pric-  
8 ing under this section shall be deposited into the Congestion Relief Fund es-  
9 tablished under ORS 383.155 for the implementation and administration of the  
10 congestion relief program established pursuant to this section, including but  
11 not limited to the Value Pricing Set-Up Project.*]

12       “[(6) *Subject to any restrictions in an agreement with the Federal Highway  
13 Administration or other federal law, in addition to the amounts received from  
14 value pricing under this section, the moneys in the Congestion Relief Fund  
15 shall be used to implement and administer the traffic congestion relief pro-  
16 gram.*]

17       **“(4) To the extent necessary and permitted by state and federal law  
18 and section 3a, Article IX of the Oregon Constitution, the commission  
19 shall ensure tolls assessed pursuant to subsection (3) of this section  
20 or tolls assessed as part of the Interstate 5 Boone Bridge and Seismic  
21 Improvement Project:**

22       **“(a) Reduce traffic congestion not only on the tollway but also on  
23 adjacent, connected or parallel highways to the tollways, regardless  
24 of ownership;**

25       **“(b) Improve safety not only on the tollway but also on adjacent,  
26 connected or parallel highways to the tollways, regardless of owner-  
27 ship; and**

28       **“(c) Minimize and mitigate impacts to historically and currently  
29 underrepresented and disadvantaged communities.**

30       **“(5) Any unit of government assessing tolls on highways for which**



1 **the unit of government is the road authority, pursuant to ORS 810.010,**  
2 **shall collaborate with other units of government to:**

3 **“(a) Determine whether assessing tolls may result in traffic, equity,**  
4 **safety or climate impacts as a result of assessing tolls;**

5 **“(b) Determine appropriate investments or efforts that may mini-**  
6 **mize or reduce any potential impacts; and**

7 **“(c) Periodically review any investments or efforts identified and**  
8 **implemented under this subsection.**

9 **“[(7)] (6) Before [*imposing value pricing*] assessing tolls in the locations**  
10 **described under subsection (3) of this section,** the commission shall re-  
11 port to the Joint Committee on Transportation established under ORS  
12 171.858.

13 **“[(8)] (7) The commission may enter into agreements with the State of**  
14 **Washington, or the State of Washington’s tollway operator or other**  
15 **designee, relating to establishing, reviewing, adjusting and collecting tolls**  
16 **for the program described in this section.**

17 **“(8) As used in this section, ‘highway’ has the meaning given that**  
18 **term in ORS 366.005.**

19 **“SECTION 19. Revenue bonds for tollway projects. (1) In accordance**  
20 **with the applicable provisions of ORS chapter 286A, the State Treas-**  
21 **urer, at the request of the Department of Transportation, may issue**  
22 **and sell revenue bonds known as tollway project revenue bonds for the**  
23 **purpose of financing tollway projects, provided that such bonds do not**  
24 **constitute a debt or general obligation of the department or of this**  
25 **state or any of its political subdivisions, but shall be payable solely**  
26 **from the revenues, amounts, funds and accounts described in ORS**  
27 **383.009 and sections 20 and 23 of this 2021 Act.**

28 **“(2) The proceeds of bonds issued under this section may be used**  
29 **by the department or loaned or granted to a private entity or a local**  
30 **government, as defined in ORS 174.116, for the purposes of:**

1       “(a) Financing any portion of the costs related to the purposes de-  
2 scribed in ORS 383.009 (2);

3       “(b) Funding any required reserves; and

4       “(c) Paying costs of issuing the bonds.

5       “(3) The bonds authorized by this section may be issued as taxable  
6 bonds or as tax-exempt bonds under the income tax laws of the United  
7 States.

8       “(4) Notwithstanding the status of the bonds for federal income tax  
9 purposes, interest paid to the owners of the bonds shall be exempt  
10 from personal income taxes imposed by this state.

11       “(5) Subject to the limitations under ORS 383.004 and 383.009, when  
12 issuing bonds under this section, the department and the State  
13 Treasurer may make covenants with bondholders regarding the im-  
14 position and regulation of tolls to meet the department’s obligations  
15 under the terms of any indenture prepared under section 22 of this 2021  
16 Act, any loan agreement and any grant agreement, including without  
17 limitation:

18       “(a) Financial covenants, debt service requirements, reserve re-  
19 quirements and any other funding requirements;

20       “(b) The use of the amounts required to be deposited in the Toll  
21 Program Fund; and

22       “(c) The issuance of additional bonds.

23       “(6) The state may not in any way impair obligations of any agree-  
24 ment between the state and holders of tollway project revenue bonds  
25 issued under this section.

26       “(7) The department, with the approval of the State Treasurer, may  
27 designate the extent to which a series of tollway project revenue bonds  
28 authorized under this section is secured and payable:

29       “(a) On a parity of lien or on a subordinate basis to existing or fu-  
30 ture Highway User Tax Bonds issued under ORS 367.615, but only if

1 sufficient moneys described under ORS 367.605 may be pledged to:

2 “(A) First, pay the annual bond debt service of all Highway User  
3 Tax Bonds issued pursuant to ORS 367.615 and 367.620; and

4 “(B) Second, pay the annual bond debt service for all tollway project  
5 revenue bonds issued under this subsection; or

6 “(b) From additional revenue sources as permitted under section 20  
7 of this 2021 Act.

8 “(8) A holder of tollway project revenue bonds issued under this  
9 section may not compel the payment of federal transportation funds  
10 to the department.

11 “(9) This section is supplemental and in addition to any other au-  
12 thority in ORS chapters 286A, 366 and 367 for the issuance of bonds by  
13 the State Treasurer at the request of the department.

14 “SECTION 20. Sources of funds to secure revenue bonds for tollway  
15 projects. (1) Moneys deposited in the Toll Program Fund established  
16 under ORS 383.009 are pledged to the payment of tollway project reve-  
17 nue bonds issued under section 19 of this 2021 Act.

18 “(2) The Department of Transportation, with the approval of the  
19 State Treasurer, may designate in any revenue declaration or  
20 indenture prepared under section 22 of this 2021 Act additional reve-  
21 nues as security for the payment of tollway project revenue bonds. The  
22 department shall set the order of priority for the additional revenues  
23 used. Additional revenues may include:

24 “(a) Moneys under ORS 367.605, which are pledged to payment of  
25 Highway User Tax Bonds issued under ORS 367.615, on a parity of lien  
26 or on a subordinate and junior basis;

27 “(b) Moneys received by the department from the United States  
28 government; or

29 “(c) Any other moneys legally available to the department.

30 “(3) The lien or charge of any pledge of moneys in the Toll Program

1 Fund to secure bonds designated as tollway project revenue bonds  
2 under section 19 of this 2021 Act is superior or prior to any other lien  
3 or charge and to any law of the state requiring the department to  
4 spend moneys for tollway project revenue projects. As long as any  
5 tollway project revenue bonds issued under section 19 of this 2021 Act  
6 are outstanding, moneys deposited to the Toll Program Fund shall be  
7 applied first to the payment of principal of, and interest on, any bonds  
8 designated as tollway project revenue bonds under section 19 of this  
9 2021 Act and then to any other purposes described under ORS 383.009.

10 **SECTION 21. Collection and use of federal transportation funds.**

11 (1) If allowed by federal law, the Department of Transportation may  
12 use federal transportation funds for the following purposes:

13 “(a) For deposit into one or more special funds or accounts that  
14 may be pledged to secure payment of the tollway project revenue  
15 bonds issued under section 19 of this 2021 Act.

16 “(b) For payment of the costs of tollway projects.

17 “(c) For reimbursement to the department of moneys previously  
18 spent on tollway projects.

19 “(2) The department may request the United States government to  
20 deposit federal transportation funds directly with a trustee for the  
21 holders of tollway project revenue bonds to secure payment of the  
22 bonds.

23 **SECTION 22. Revenue declaration or indenture; contents; purpose.**

24 (1) Before tollway project revenue bonds are issued under section 19  
25 of this 2021 Act, the Department of Transportation must prepare a  
26 revenue declaration or indenture authorizing issuance of the bonds.  
27 The revenue declaration or indenture must be signed by the Director  
28 of Transportation or a person designated by the director and must be  
29 approved by the State Treasurer or a person designated by the State  
30 Treasurer.

1       **“(2) A revenue declaration or indenture prepared under this section**  
2 **may do any of the following:**

3       **“(a) Pledge any part or all of moneys described under section 20 of**  
4 **this 2021 Act for purposes of the bonds to be issued.**

5       **“(b) Limit the purpose for which the proceeds of the sale may be**  
6 **applied by the department.**

7       **“(c) Make pledges concerning the proceeds of the sale or moneys**  
8 **described under section 20 of this 2021 Act as necessary to secure**  
9 **payment of bonds of the department.**

10       **“(d) Limit or establish terms upon which additional bonds or re-**  
11 **funding bonds may be issued under section 19 of this 2021 Act.**

12       **“(e) Provide for procedures, if any, by which the terms of contracts**  
13 **with bondholders may be amended or rescinded, for the percentage of**  
14 **the bondholders that must consent to amendment or rescission of the**  
15 **contract and for the manner of bondholder consent to any amendment**  
16 **or rescission of the contract.**

17       **“(f) Establish a trustee and vest the trustee with property, rights,**  
18 **powers and duties in trust, as the State Treasurer determines appro-**  
19 **priate.**

20       **“(g) Provide for other matters affecting the issuance of bonds.**

21       **“(h) Provide for a debt service reserve pursuant to ORS 286A.025 (6).**

22       **“(i) Provide for certain covenants pursuant to ORS 286A.025 (4)(c)**  
23 **and ORS 286A.102 (10).**

24       **“SECTION 23. Reserve account. (1) The Department of Transporta-**  
25 **tion may establish one or more separate reserve accounts within, or**  
26 **separate and distinct from, the Toll Program Fund in connection with**  
27 **the issuance of tollway project revenue bonds issued under section 19**  
28 **of this 2021 Act.**

29       **“(2) The moneys held in any account established under this section**  
30 **may be subject to the provisions of any revenue declaration or**

1 indenture prepared under section 22 of this 2021 Act.

2 **“SECTION 24. Bond form, issuance and maturity; provisions subject**  
3 **to determination of State Treasurer.** (1) A tollway project revenue  
4 bond issued under section 19 of this 2021 Act:

5 **“(a) Must contain on its face a statement that the ad valorem tax-**  
6 **ing power of this state is not pledged to the payment of the principal**  
7 **or the interest on the bond.**

8 **“(b) Shall be issued as provided in ORS chapter 286A.**

9 **“(c) Must mature on or before a date determined by calculation of**  
10 **the expected economic life of the improvements, assets and projects**  
11 **financed with the proceeds of the bond.**

12 **“(2) The State Treasurer shall determine, after consultation with**  
13 **the Department of Transportation, all aspects relating to the sale of**  
14 **bonds under section 19 of this 2021 Act that are not otherwise specif-**  
15 **ically provided in sections 19 to 24 of this 2021 Act.**

16 **“SECTION 25. ORS 383.006, 383.013, 383.023 and 383.065 are repealed.**

17  
18 **“FINANCING FOR TOLLWAY PROJECTS**

19  
20 **“SECTION 26.** ORS 367.010 is amended to read:

21 **“367.010. As used in this chapter:**

22 **“(1) ‘Agency’ means any department, agency or commission of the State**  
23 **of Oregon.**

24 **“(2) ‘Bond’ means [an evidence of indebtedness] a contractual under-**  
25 **taking or an instrument to borrow money** including, but not limited to,  
26 a bond, a note, an obligation, a loan agreement, a financing lease, a financ-  
27 ing agreement or other similar instrument or agreement.

28 **“(3) ‘Bond debt service’ means payment of:**

29 **“(a) Principal, interest, premium, if any, or purchase price of a bond;**

30 **“(b) Amounts due to a credit enhancement provider, trustee, paying**

1 agent, **commercial paper dealer** or remarketing agent authorized by this  
2 chapter;

3 “(c) Amounts necessary to fund bond debt service reserves; and

4 “(d) Amounts due under an agreement for exchange of interest rates if  
5 designated by the State Treasurer or the Department of Transportation.

6 “(4) ‘Credit enhancement’ means a credit enhancement device, as defined  
7 in ORS 286A.001.

8 “(5) ‘Financial institution’ means a banking institution, a financial insti-  
9 tution or a non-Oregon institution, as those terms are defined in ORS  
10 706.008, and any other institution defined by rule of the Oregon Transporta-  
11 tion Commission as a financial institution for purposes of ORS 367.010 to  
12 367.067.

13 “(6) ‘Infrastructure assistance’ means any use of moneys in the Oregon  
14 Transportation Infrastructure Fund, other than an infrastructure loan, to  
15 provide financial assistance for transportation projects. The term includes,  
16 but is not limited to, use of moneys in the infrastructure fund to finance  
17 leases, fund reserves, make grants, pay issuance costs or provide credit en-  
18 hancement or other security for bonds issued by a public entity to finance  
19 transportation projects.

20 “(7) ‘Infrastructure bonds’ means bonds authorized by ORS 367.030, 367.555  
21 to 367.600 or 367.605 to 367.665 that are issued to fund infrastructure loans  
22 and the proceeds of which are deposited in the infrastructure fund.

23 “(8) ‘Infrastructure fund’ means the Oregon Transportation Infrastructure  
24 Fund.

25 “(9) ‘Infrastructure loan’ means a loan of moneys in the infrastructure  
26 fund to finance a transportation project.

27 “(10) ‘Municipality’ means a city, county, road district, school district,  
28 special district, metropolitan service district, the Port of Portland or an  
29 intergovernmental entity organized under ORS 190.010.

30 “(11) ‘Transportation project’ means any project or undertaking that fa-

1 cilitates any mode of transportation within this state. The term includes, but  
2 is not limited to, a project for highway, transit, rail and aviation capital  
3 infrastructure, bicycle and pedestrian paths, bridges and ways, and other  
4 projects that facilitate the transportation of materials, animals or people.

5 **“SECTION 27.** ORS 367.555 is amended to read:

6 “367.555. (1) The Department of Transportation may request the State  
7 Treasurer to issue general obligation bonds of the State of Oregon used to  
8 provide funds to defray the costs of building and maintaining permanent  
9 roads, including the costs of location, relocation, improvement, construction  
10 and reconstruction of state highways and bridges[ *in an outstanding princi-*  
11 *pal amount that is subject to the provisions of ORS 286A.035.*] **and those**  
12 **portions of a tollway project, as defined in ORS 383.003, that constitute**  
13 **building or maintaining permanent roads.**

14 **“(2) The principal amount of any bonds issued under this section is**  
15 **subject to the provisions of ORS 286A.035.**

16 **“SECTION 28.** ORS 367.560 is amended to read:

17 “367.560. All moneys obtained from the sale of general obligation bonds  
18 under ORS 367.555 to 367.600 must be paid over to the State Treasurer and  
19 credited by the State Treasurer to **either** the State Highway Fund **or the**  
20 **Toll Program Fund.** Such moneys may be used only for the purposes [*stated*  
21 *in ORS 367.555 to 367.600 and, pending the use of such moneys for highway*  
22 *purposes*] **for which the bonds were authorized to be sold and, pending**  
23 **the use of the moneys,** may be invested as provided by law.

24 **“SECTION 29.** ORS 367.615 is amended to read:

25 “367.615. (1) The Department of Transportation may request the State  
26 Treasurer to issue and sell revenue bonds known as Highway User Tax  
27 Bonds as provided in this section.

28 “(2) Bonds issued under this section do not constitute a debt or general  
29 obligation of this state or any political subdivision of this state but are se-  
30 cured and payable from moneys described under ORS 367.605. A holder of



1 bonds issued under this section may not compel the exercise of the ad  
2 valorem taxing power of the state to pay the bond debt service on the bonds.

3 “(3) This state shall provide for the continued assessment, levy, collection  
4 and deposit into the highway fund of moneys described under ORS 367.605  
5 in amounts sufficient to pay, when due, the annual bond debt service and  
6 other amounts necessary to meet requirements established by indenture un-  
7 der ORS 367.640.

8 “(4) This state may not in any way impair obligations of any agreement  
9 between this state and the holders of bonds issued under this section.

10 “(5) The authority granted by this section is continuing and the depart-  
11 ment reserves the right to request the State Treasurer to issue additional  
12 bonds under this section subject to the following:

13 “(a) Additional bonds must be secured equally and ratably by the pledge  
14 and appropriation of moneys described under ORS 367.605 unless the State  
15 Treasurer, as permitted by law and the contracts with owners of outstanding  
16 Highway User Tax Bonds, issues additional bonds in different series and se-  
17 cures each series by a lien on and pledge of moneys described under ORS  
18 367.605 that is superior to or subordinate to the lien of the pledge securing  
19 any other series of Highway User Tax Bonds.

20 “(b) The State Treasurer may only issue additional bonds **under this**  
21 **section** if sufficient moneys described under ORS 367.605 may be pledged to  
22 pay the annual bond debt service for all outstanding bonds issued under this  
23 section as well as for the additional bonds.

24 “(6) Proceeds from the sale of bonds under this section are declared to  
25 be for the purpose of building and maintaining permanent public roads and  
26 may be used:

27 “(a) To finance the cost of state highway, county road and city street  
28 projects in this state.

29 “(b) To pay the cost of issuing the bonds.

30 “(c) For loans to cities and counties as provided under ORS 367.035 or

1 367.655.

2 “(d) To pay the bond debt service of the bonds.

3 “(e) To pay the costs of the State Treasurer and the department to ad-  
4 minister and maintain the bonds and the Highway User Tax Bond program,  
5 including the cost of consultants, advisors, attorneys or other professional  
6 service providers appointed, retained or approved by the treasurer or the  
7 department.

8 “(f) To pay capitalized interest, principal or premium, if any, of the bonds.

9 “(g) For rebates or penalties due to the United States in connection with  
10 the bonds.

11 “(7) The State Treasurer, at the request of the department, may issue  
12 Highway User Tax Bonds as capital appreciation bonds, auction rate bonds,  
13 variable rate bonds, deep discount bonds or deferred interest bonds.

14 “(8) The State Treasurer or the Director of Transportation, if so directed  
15 by the treasurer, may obtain credit enhancement or an agreement for ex-  
16 change of interest rates to provide additional security or liquidity for the  
17 bonds or to provide funding, in lieu of cash, for all or a portion of a bond  
18 debt service reserve account established with respect to the bonds.

19

20 **“CONFORMING AMENDMENTS RELATED TO TOLLING**

21

22 **“SECTION 30.** ORS 366.505 is amended to read:

23 **“366.505. (1) Except as provided in ORS 383.009,** the State Highway  
24 Fund shall consist of:

25 “(a) All moneys and revenues derived under and by virtue of the sale of  
26 bonds, the sale of which is authorized by law and the proceeds thereof to be  
27 dedicated to highway purposes.

28 “(b) All moneys and revenues accruing from the licensing of motor vehi-  
29 cles, operators and chauffeurs.

30 “(c) Moneys and revenues derived from any tax levied upon gasoline,

1 distillate, liberty fuel or other volatile and inflammable liquid fuels, except  
2 moneys and revenues described in ORS 184.642 (2)(a) that become part of the  
3 Department of Transportation Operating Fund.

4 “(d) Moneys and revenues derived from the road usage charges imposed  
5 under ORS 319.885.

6 “(e) Moneys and revenues derived from the use tax imposed under ORS  
7 320.410.

8 “(f) Moneys and revenues derived from or made available by the federal  
9 government for road construction, maintenance or betterment purposes.

10 “(g) All moneys and revenues received from all other sources which by  
11 law are allocated or dedicated for highway purposes.

12 “(2) The State Highway Fund shall be deemed and held as a trust fund,  
13 separate and distinct from the General Fund, and may be used only for the  
14 purposes authorized by law and is continually appropriated for such pur-  
15 poses.

16 “(3) Moneys in the State Highway Fund may be invested as provided in  
17 ORS 293.701 to 293.857. All interest earnings on any of the funds designated  
18 in subsection (1) of this section shall be placed to the credit of the highway  
19 fund.

20 **“SECTION 31.** ORS 367.806 is amended to read:

21 “367.806. (1) As part of the Oregon Innovative Partnerships Program es-  
22 tablished under ORS 367.804, the Department of Transportation may:

23 “(a) Enter into any agreement or any configuration of agreements relating  
24 to transportation projects with any private entity or unit of government or  
25 any configuration of private entities and units of government. The subject  
26 of agreements entered into under this section may include, but need not be  
27 limited to, planning, acquisition, financing, development, design, con-  
28 struction, reconstruction, replacement, improvement, maintenance, manage-  
29 ment, repair, leasing and operation of transportation projects.

30 “(b) Include in any agreement entered into under this section any fi-

1 nancing mechanisms, including but not limited to the imposition and col-  
2 lection of franchise fees or user fees and the development or use of other  
3 revenue sources.

4 “(2) As part of the Oregon Innovative Partnerships Program established  
5 under ORS 367.804, the department shall enter into agreements to undertake  
6 transportation projects the subjects of which include the application of  
7 technology standards to determine whether to certify technology, the col-  
8 lection of metered use data, tax processing and account management, as  
9 these subjects relate to the operation of a road usage charge system pursuant  
10 to ORS 319.883 to 319.946.

11 “(3) The agreements among the public and private sector partners entered  
12 into under this section must specify at least the following:

13 “(a) At what point in the transportation project public and private sector  
14 partners will enter the project and which partners will assume responsibility  
15 for specific project elements;

16 “(b) How the partners will share management of the risks of the project;

17 “(c) How the partners will share the costs of development of the project;

18 “(d) How the partners will allocate financial responsibility for cost over-  
19 runs;

20 “(e) The penalties for nonperformance;

21 “(f) The incentives for performance;

22 “(g) The accounting and auditing standards to be used to evaluate work  
23 on the project; and

24 “(h) Whether the project is consistent with the plan developed by the  
25 Oregon Transportation Commission under ORS 184.617 and any applicable  
26 regional transportation plans or local transportation system programs and,  
27 if not consistent, how and when the project will become consistent with ap-  
28 plicable plans and programs.

29 “(4) The department may, either separately or in combination with any  
30 other unit of government, enter into working agreements, coordination

1 agreements or similar implementation agreements to carry out the joint im-  
2 plementation of any transportation project selected under ORS 367.804.

3 “(5) Except for ORS 383.015[, 383.017 (1), (2), (3) and (5)] and 383.019, the  
4 provisions of ORS 383.003 to 383.075 apply to any tollway project entered into  
5 under ORS 367.800 to 367.824.

6 “(6) The provisions of ORS 279.835 to 279.855 and ORS chapters 279A,  
7 279B and 279C do not apply to concepts or proposals submitted under ORS  
8 367.804, or to agreements entered into under this section, except that if  
9 public moneys are used to pay any costs of construction of public works that  
10 is part of a project, the provisions of ORS 279C.800 to 279C.870 apply to the  
11 public works. In addition, if public moneys are used to pay any costs of  
12 construction of public works that is part of a project, the construction con-  
13 tract for the public works must contain provisions that require the payment  
14 of workers under the contract in accordance with ORS 279C.540 and 279C.800  
15 to 279C.870.

16 “(7)(a) The department may not enter into an agreement under this sec-  
17 tion until the agreement is reviewed and approved by the Oregon Transpor-  
18 tation Commission.

19 “(b) The department may not enter into, and the commission may not  
20 approve, an agreement under this section for the construction of a public  
21 improvement as part of a transportation project unless the agreement pro-  
22 vides for bonding, financial guarantees, deposits or the posting of other se-  
23 curity to secure the payment of laborers, subcontractors and suppliers who  
24 perform work or provide materials as part of the project.

25 “(c) Before presenting an agreement to the commission for approval under  
26 this subsection, the department must consider whether to implement proce-  
27 dures to promote competition among subcontractors for any subcontracts to  
28 be let in connection with the transportation project. As part of its request  
29 for approval of the agreement, the department shall report in writing to the  
30 commission its conclusions regarding the appropriateness of implementing

1 such procedures.

2 “(8)(a) Except as provided in paragraph (b) of this subsection, documents,  
3 communications and information developed, exchanged or compiled in the  
4 course of negotiating an agreement with a private entity under this section  
5 are exempt from disclosure under ORS 192.311 to 192.478.

6 “(b) The documents, communications or information described in para-  
7 graph (a) of this subsection are subject to disclosure under ORS 192.311 to  
8 192.478 when the documents, communications or information are submitted  
9 to the commission in connection with its review and approval of a trans-  
10 portation project under subsection (7) of this section.

11 “(9) The terms of a final agreement entered into under this section and  
12 the terms of a proposed agreement presented to the commission for review  
13 and approval under subsection (7) of this section are subject to disclosure  
14 under ORS 192.311 to 192.478.

15 “(10) As used in this section:

16 “(a) ‘Public improvement’ has the meaning given that term in ORS  
17 279A.010.

18 “(b) ‘Public works’ has the meaning given that term in ORS 279C.800.

19 **“SECTION 32.** ORS 367.816 is amended to read:

20 “367.816. (1) Notwithstanding ORS 367.020, the Department of Transpor-  
21 tation may use moneys in the Oregon Transportation Infrastructure Fund  
22 established by ORS 367.015 to ensure the repayment of loan guarantees or  
23 extensions of credit made to or on behalf of private entities engaged in the  
24 planning, acquisition, financing, development, design, construction, recon-  
25 struction, replacement, improvement, maintenance, management, repair,  
26 leasing or operation of any transportation project that is part of the program  
27 established under ORS 367.804.

28 “(2) The lien of a pledge made under this section is subordinate to the lien  
29 of a pledge securing bonds payable from moneys in the State Highway Fund  
30 described in ORS 366.505, the [*State Tollway Account*] **Toll Program Fund**

1 established by ORS 383.009 or the State Transportation Enterprise Fund es-  
2 tablished by ORS 367.810.

3 **“SECTION 33.** ORS 381.312 is amended to read:

4 “381.312. (1) The Port of Hood River, or any private entity or unit of  
5 government that the port designates to operate a bridge in an agreement the  
6 port enters into under ORS 381.205 to 381.314, may establish, collect or alter  
7 a reasonable toll, administrative fee or civil penalty in connection with the  
8 bridge.

9 “(2) The port or the private entity or unit of government that the port  
10 designates shall deposit any proceeds from a toll, administrative fee or civil  
11 penalty into an account established under an agreement described in ORS  
12 381.310. The port or unit of government shall deposit the share of proceeds  
13 that the port or unit of government receives with a depository that meets the  
14 requirements set forth in ORS chapter 295. A private entity shall deposit the  
15 share of proceeds that the private entity receives with an insured institution,  
16 as defined in ORS 706.008.

17 “(3)(a) The Department of Transportation, on behalf of the port, shall:

18 “(A) Assess and collect the amount of a toll that a person fails to pay,  
19 plus a civil penalty and administrative fee; and

20 “(B) Refuse to renew the motor vehicle registration of the motor vehicle  
21 of a person that failed to pay a toll, a civil penalty or an administrative fee  
22 assessed under this subsection.

23 “(b) For the purpose of conducting the activities described in paragraph  
24 (a) of this subsection, the department shall:

25 “(A) Treat a toll established in connection with the bridge as a toll that  
26 was established under ORS 383.004;

27 “(B) Apply the exemptions set forth in ORS 383.035 [(3)] (5); and

28 “(C) Adopt rules to establish a process by means of which the port, a  
29 private entity or a unit of government may request action from the depart-  
30 ment under this subsection.

1       **“SECTION 34.** ORS 383.015 is amended to read:

2       “383.015. (1) Tollway projects may be initiated by the Department of  
3 Transportation, by a unit of government having an interest in the installa-  
4 tion of a tollway, or by a private entity interested in constructing or oper-  
5 ating a tollway project. The department shall charge an administrative fee  
6 for reviewing and considering any tollway project proposed by a private en-  
7 tity, which the department shall establish by rule. All such administrative  
8 fees shall be deposited into the [*State Tollway Account*] **Toll Program**  
9 **Fund.**

10       “(2) The department shall adopt rules pursuant to which it will consider  
11 authorization of a tollway project. The rules shall require consideration of:

12       “(a) The opinions and interests of units of government encompassing or  
13 adjacent to the path of the proposed tollway project in having the tollway  
14 installed;

15       “(b) The probable impact of the proposed tollway project on local envi-  
16 ronmental, aesthetic and economic conditions and on the economy of the  
17 state in general;

18       “(c) The extent to which funding other than state funding is available for  
19 the proposed tollway project;

20       “(d) The likelihood that the estimated use of the tollway project will  
21 provide sufficient revenues to independently finance the costs related to the  
22 construction and future maintenance, repair and reconstruction of the  
23 tollway project, including the repayment of any loans to be made from  
24 moneys in the [*State Tollway Account*] **Toll Program Fund**;

25       “(e) With respect to tollway projects, any portion of which will be fi-  
26 nanced with state funds or department loans or grants:

27       “(A) The relative importance of the proposed tollway project compared to  
28 other proposed tollways; and

29       “(B) Traffic congestion and economic conditions in the communities that  
30 will be affected by competing tollway projects; and



1 “(f) The effects of tollway implementation on community and local street  
2 traffic.

3 “(3) Notwithstanding any other provision of ORS 383.001 to 383.075, no  
4 tollway project shall be authorized unless the department finds that either:

5 “(a) Based on the department’s estimate of present and future traffic  
6 patterns, the revenues generated by the tollway project will be sufficient,  
7 after payment of all obligations incurred in connection with the acquisition,  
8 construction and operation of such tollway project, to ensure the continued  
9 maintenance, repair and reconstruction of the tollway project without the  
10 contribution of additional public funds; or

11 “(b) The revenues generated by the tollway project will be at least suffi-  
12 cient to pay its operational expenses and a portion of the costs of its con-  
13 struction, maintenance, repair and reconstruction, and the importance of the  
14 tollway project to the welfare or economy of the state is great enough to  
15 justify the use of public funding for a portion of its construction, mainte-  
16 nance, repair and reconstruction.

17 “(4) If the department finds that a proposed tollway project qualifies for  
18 authorization under this section, the department may conduct or cause to  
19 be conducted any environmental, geological or other studies required by law  
20 as a condition of construction of the tollway project. The costs of completing  
21 the studies for any proposed tollway project may be paid from moneys in the  
22 [*State Tollway Account*] **Toll Program Fund** that are reimbursed from the  
23 permanent financing for the project.

24

25

## “SPECIFIC PROJECTS

26

27 **“SECTION 35. (1) To the extent necessary and permitted by state**  
28 **and federal law and section 3a, Article IX of the Oregon Constitution,**  
29 **toll projects on interstate highways shall include investments to make**  
30 **improvements or fund efforts to reduce congestion, improve safety and**

1 reduce impacts of diversion as a result of the toll project.

2 “(2) Investments described in subsection (1) of this section, may  
3 include but are not limited to multimodal investments on adjacent,  
4 connected or parallel highways, regardless of ownership.

5 “(3) When making a decision about the design of a highway project,  
6 the Department of Transportation shall consider how the effect of  
7 implementing tolling may reduce:

8 “(a) Vehicle miles traveled; and

9 “(b) The future capacity needs of the highway.

10

11 **“REPORT ON EQUITABLE INCOME-BASED TOLL RATES**

12

13 **“SECTION 36. (1) As used in this section, ‘toll’ and ‘tollway’ have**  
14 **the meanings given those terms in ORS 383.003.**

15 **“(2) Before the Department of Transportation assesses a toll, the**  
16 **department shall implement a method for establishing equitable**  
17 **income-based toll rates to be paid by users of tollways.**

18 **“(3) At least 90 days before the date the Oregon Transportation**  
19 **Commission seeks approval from the Federal Highway Administration**  
20 **to use the income-based toll rates developed under subsection (1) of**  
21 **this section, the department shall prepare and submit a report on the**  
22 **method developed to the Joint Committee on Transportation and the**  
23 **Oregon Transportation Commission. The department may also submit**  
24 **to the Joint Committee on Transportation any recommended legisla-**  
25 **tive changes. The report shall be provided to the Joint Committee on**  
26 **Transportation, in the manner provided under ORS 192.245, on or be-**  
27 **fore September 15, 2022.**

28 **“SECTION 37. Section 36 of this 2021 Act is repealed on January 2,**  
29 **2023.**

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1                                   **“PROJECT LABOR AGREEMENTS**

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**“SECTION 38. (1) As used in this section:**

**“(a) ‘Apprentice’ has the meaning given that term in ORS 660.010.**

**“(b) ‘Apprenticeable occupation’ has the meaning given that term in ORS 660.010.**

**“(c) ‘General contractor’ has the meaning given that term in ORS 701.005.**

**“(d) ‘Project labor agreement’ means a collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project.**

**“(e) ‘Training agent’ has the meaning given that term in ORS 660.010.**

**“(2) The Director of Transportation shall apply the considerations specified in subsection (3) of this section to objectively and specifically determine whether a project labor agreement is appropriate for each of the interstate highway projects described in ORS 367.095 (2)(a)(A)(i) to (iv).**

**“(3) In making the determination described in subsection (2) of this section, the director shall consider:**

**“(a) Whether a project labor agreement will secure a skilled and diverse workforce for the project;**

**“(b) Whether a single project labor agreement for all of the projects described in subsection (2) of this section is feasible and beneficial and whether the project subject to the director’s determination could be included within or adapted to the terms and conditions of a project labor agreement for all of the projects described in subsection (2) of this section;**

**“(c) Whether the project labor agreement includes provisions for employing a sufficient percentage of apprentices in apprenticeable oc-**

1 cupations and whether the employer is or will agree to become a  
2 training agent;

3 “(d) The numbers and categories of the trades and crafts that the  
4 project will likely require;

5 “(e) The potential for labor disruptions in connection with the  
6 project;

7 “(f) Whether anticipated benefits for the public, including efficien-  
8 cies from using skilled labor, a higher quality of construction, im-  
9 proved safety for workers and the public and timely completion of the  
10 project, outweigh anticipated costs associated with a project labor  
11 agreement;

12 “(g) The urgency of the project and the harm to the public interest  
13 if delays occur in the project schedule; and

14 “(h) The size and complexity of the project and the time necessary  
15 to complete the project.

16 “(4) The director shall ensure that, at a minimum, any project labor  
17 agreement the director determines is appropriate for any of the  
18 projects described in subsection (2) of this section:

19 “(a) Designates a general contractor or project manager for the  
20 project with experience in negotiating and administering project labor  
21 agreements to manage the construction of the project and to develop  
22 and implement an effective labor relations policy for the project;

23 “(b) Allows all contractors and subcontractors to compete for con-  
24 tracts and subcontracts to perform work on or supply materials for the  
25 project without regard to whether the contractor or subcontractor is  
26 a party to any other collective bargaining agreement;

27 “(c) Has guarantees against strikes, lockouts or otherwise slowing  
28 or stopping work on the project;

29 “(d) Sets forth prompt, effective and mutually binding procedures  
30 for resolving labor disputes that arise during the term of the agree-

1 **ment; and**

2 **“(e) Binds all contractors and all subcontractors at any tier that**  
3 **perform work on the construction project to the provisions set forth**  
4 **in this paragraph by means of:**

5 **“(A) Appropriate specifications in solicitation documents for the**  
6 **project and in contractors’ solicitations for subcontracts for the**  
7 **project; and**

8 **“(B) Appropriate terms and conditions in each public contract and**  
9 **all subcontracts for the project.**

10

11

**“CAPTIONS**

12

13 **“SECTION 39. The unit and section captions used in this 2021 Act**  
14 **are provided only for the convenience of the reader and do not become**  
15 **part of the statutory law of this state or express any legislative intent**  
16 **in the enactment of this 2021 Act.**

17

18

**“EFFECTIVE DATE**

19

20 **“SECTION 40. This 2021 Act takes effect on the 91st day after the**  
21 **date on which the 2021 regular session of the Eighty-first Legislative**  
22 **Assembly adjourns sine die.”.**

23

\_\_\_\_\_