

voters' pamphlet



VOTE BY MAIL PRIMARY ELECTION, MAY 16, 2000

Compiled and Distributed by

Bill Bullock

Oregon Secretary of State



This Voters' Pamphlet is provided for assistance in casting your vote by mail ballot.

BILL BRADBURY

SECRETARY OF STATE

SUZANNE TOWNSEND
DEPUTY SECRETARY OF STATE



STATE OF OREGON
SECRETARY OF STATE
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Dear Oregonian –

This State Voters' Pamphlet is the largest ever produced for a Primary Election in Oregon, due mostly to the number of measures on the state ballot. It is my earnest hope that the size of this pamphlet will not keep anyone from reading it. Rather, every Oregonian should look at this document as the most direct and complete source of information on candidates and issues on the May 16 ballot.

This is also the first Primary Election in the nation to be conducted entirely by mail. Every Oregon voter will have the full opportunity to study their choices thoroughly and in advance of making informed decisions. Every elections official in Oregon shares my goal to ensure that this election continues the proud tradition we have in Oregon of voting by mail efficiently and with integrity.

I challenge each of us to take this unprecedented voting opportunity to reflect on the meaning of our right to vote -

- If you are not registered to vote, are at least 18 years old, and are a U.S. citizen, please think for a minute about how your future is being determined without your participation and consider registering to vote by April 25.
- If you regularly vote and will do so this election, please take the time to share with others the reasons you vote and encourage them to do so, as well.

I give you this challenge in the firm belief that WE, the people, ARE the government, and it is what we, as a community and nation, make of it. We have a solemn responsibility to each other and ourselves, and the power, to direct government to match our needs. The frontline of that power and responsibility is YOUR VOTE.

The disturbing decline in voter participation, and the reduced number of younger citizens even registering to vote, should cause all of us grave concern. We stand the risk of losing a whole generation of voters. You have the power to guarantee that does not happen, and to change Oregon for the better.

Sincerely,

A handwritten signature in black ink that reads "Bill Bradbury". The signature is stylized and cursive.

Bill Bradbury

On the cover: Columnar Basalt provides a dramatic frame for Toketee Falls, where the upper North Umpqua River cascades 90 feet. "Toketee" means "pretty" in Chinook jargon and April/May is a splendid time to view the falls, accessible by a 0.4 mile trail through blooming trillium and rhododendron. This 1997 photo is courtesy of Jim Dopkus of Springfield, Oregon.

Information

GENERAL

Your official 2000 Primary Election Voters' Pamphlet provides you with information about measures and candidates that will appear on your ballot. The pamphlet is divided into separate sections for measures and candidates. You can find page numbers for the beginning of each of these sections, as well as the alphabetical index of candidates, in the table of contents on this page.

Material in the measures section includes the state ballot title, estimate of financial impact, the complete text of the proposed measure, an impartial statement explaining the measure and any arguments filed by proponents and opponents of the measure.

The estimate of financial impact for each measure is prepared by a committee of state officials including the Secretary of State, the State Treasurer, the Director of the Oregon Department of Administrative Services and the Director of the Department of Revenue. The committee estimates only the direct impact on state and local governments.

The explanatory statement is an impartial statement explaining the measure. Each measure's explanatory statement is written by a committee of five members, including two proponents of the measure, two opponents of the measure and a fifth member appointed by the first four committee members, or, if they fail to agree on a fifth member, appointed by the Secretary of State. Explanatory statements can be appealed and may be changed by the Oregon Supreme Court.

Citizens or organizations may file arguments in favor of, or in opposition to, measures by purchasing space for \$500 or by submitting a petition signed by 1,000 voters. Arguments in favor of a measure appear first, followed by arguments in opposition to the measure, and are printed in the order in which they are filed with the Secretary of State's office.

Additionally, measures 77 through 81 were referred to Oregon voters by the 1999 Legislature and you will find a "Legislative Argument in Support" for each of these measures. Oregon law allows the Legislature to submit, at no cost, an argument in support of each measure it refers to the people.

In the candidate section, partisan candidates appear before nonpartisan candidates. Every two years, at the primary election, the order in which each major political party's candidates appear

is rotated. All space is purchased; statements and photographs are submitted by the candidates or their designated agents. The information required by law—pertaining to occupation, occupational background, educational background and prior governmental experience—has been certified by each candidate.

Miscellaneous voting aids, including congressional and district maps, drop site locations and a complete list of the state measures and candidates, are also a part of the Voters' Pamphlet. In an effort not to duplicate the printing of information, some of these voting aids are not a part of the state Voters' Pamphlet, but instead are included in your county Voters' Pamphlet, if your county has produced a Voters' Pamphlet.

The Voters' Pamphlet has been compiled by the Secretary of State since 1903, when Oregon became one of the first states to provide for the printing and distribution of such a publication. One copy of the Voters' Pamphlet is mailed to every household in the state. Additional copies are available at the State Capitol, local post offices, courthouses and all county election offices.

WEBSITE

Most of the information contained in this Voters' Pamphlet is also available in the Online Voters' Guide on the World Wide Web at <http://www.sos.state.or.us/elections/elechp.htm>

RANDOM ALPHABET

While the candidates' statements appear in alphabetical order by their last name in this Voters' Pamphlet, you will notice that they appear in a different order on your ballot.

Pursuant to ORS 254.155, the Secretary of State is required to complete a random order of the letters of the alphabet to determine the order in which the names of candidates appear on the ballot.

The alphabet for the 2000 Primary Election is:

P, A, L, Q, T, E, R, O, N, W, U, Z, S, X, M, H, I, B, J, G, F, K, D, Y, C, V

ATTENTION:

The State of Oregon prints measure arguments and candidate statements as submitted by the author. The state *does not correct* punctuation, grammar, syntax errors or inaccurate information. The only changes made are attempts to correct spelling errors if the word as originally submitted is not in the dictionary.

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YOUR VOTED BALLOT MUST BE RETURNED (POSTMARKS DO NOT COUNT) TO YOUR COUNTY ELECTIONS OFFICE BY ELECTION DAY, TUESDAY, MAY 16, 2000.

County Elections Offices are open on election day from 7 a.m. to 8 p.m.

List of State Measures and Candidates

This is a complete listing of the statewide measures and state candidates for the Primary Election, May 16, 2000, as prepared by the Secretary of State, for the counties covered in this pamphlet. On election day, your ballot may also include additional measures and candidates from your county and local governments. **PLEASE NOTE:** Each candidate listed does not necessarily have a statement in the Voters' Pamphlet. Some candidates do not choose to purchase space.

STATE MEASURES

- NO. 77—AMENDS CONSTITUTION: MAKES CERTAIN LOCAL TAXING DISTRICTS' TEMPORARY PROPERTY TAX AUTHORITY PERMANENT**
(Vote Yes or No)
RESULT OF "YES" VOTE: "Yes" vote changes portions of certain local districts' property tax authority from temporary to permanent.
RESULT OF "NO" VOTE: "No" vote retains current local districts' temporary and permanent property tax authority.
- NO. 78—AMENDS CONSTITUTION: LENGTHENS PERIOD FOR VERIFYING SIGNATURES ON INITIATIVE AND REFERENDUM PETITIONS**
(Vote Yes or No)
RESULT OF "YES" VOTE: "Yes" vote lengthens period for verifying initiative, referendum petition signatures from 15 to 30 days.
RESULT OF "NO" VOTE: "No" vote retains current 15-day period for verifying signatures on initiative and referendum petitions.
- NO. 79—AMENDS CONSTITUTION: INCREASES SIGNATURES REQUIRED TO PLACE INITIATIVE AMENDING CONSTITUTION ON BALLOT**
(Vote Yes or No)
RESULT OF "YES" VOTE: "Yes" vote increases number of signatures required to place initiative to amend constitution on ballot.
RESULT OF "NO" VOTE: "No" vote rejects increasing signatures required to place initiative to amend constitution on ballot.
- NO. 80—AMENDS CONSTITUTION: AUTHORIZES USING FUEL TAX, VEHICLE FEES FOR INCREASING HIGHWAY POLICING**
(Vote Yes or No)
RESULT OF "YES" VOTE: "Yes" vote authorizes using fuel tax, motor vehicle fees for increasing policing of highway system.
RESULT OF "NO" VOTE: "No" vote rejects allowing fuel tax, vehicle fee use for increasing policing of highway system.
- NO. 81—AMENDS CONSTITUTION: ALLOWS LEGISLATURE TO LIMIT RECOVERY OF DAMAGES IN CIVIL ACTIONS**
(Vote Yes or No)
RESULT OF "YES" VOTE: "Yes" vote adds constitutional provision allowing legislature to limit recovery of damages in civil actions.
RESULT OF "NO" VOTE: "No" vote retains restrictions on legislature's authority to limit recovery of damages in civil actions.
- NO. 82—REPEALS TRUCK WEIGHT-MILE TAX; ESTABLISHES AND INCREASES FUEL TAXES**
(Vote Yes or No)
RESULT OF "YES" VOTE: "Yes" vote repeals truck weight-mile tax; establishes diesel tax; increases gas tax, registration fees.
RESULT OF "NO" VOTE: "No" vote retains weight-mile highway tax on trucks; rejects increasing gas tax, registration fees.

DEMOCRATIC CANDIDATES

- UNITED STATES PRESIDENT—(Vote for One)**—Lyndon H. LaRouche, Jr.; Al Gore
- REPRESENTATIVE IN CONGRESS, 4TH DISTRICT—(Vote for One)**—Peter A. DeFazio
- REPRESENTATIVE IN CONGRESS, 5TH DISTRICT—(Vote for One)**—Darlene Hooley
- SECRETARY OF STATE—(Vote for One)**—Bill Bradbury
- STATE TREASURER—(Vote for One)**—Randall Edwards; Gary Bruebaker
- ATTORNEY GENERAL—(Vote for One)**—Hardy Myers
- STATE REPRESENTATIVE, 34TH DISTRICT—(Vote for One)**—Marilyn L. Slizeski
- STATE REPRESENTATIVE, 35TH DISTRICT—(Vote for One)**—Kelley Wirth
- STATE REPRESENTATIVE, 36TH DISTRICT—(Vote for One)**—John Donovan

REPUBLICAN CANDIDATES

- UNITED STATES PRESIDENT—(Vote for One)**—George W. Bush; Alan Keyes
- REPRESENTATIVE IN CONGRESS, 4TH DISTRICT—(Vote for One)**—John Lindsey; Wendell Robinson
- REPRESENTATIVE IN CONGRESS, 5TH DISTRICT—(Vote for One)**—Aaron J. Hill; Brian J. Boquist
- SECRETARY OF STATE—(Vote for One)**—Lynn Lundquist; Paul Damian Wells; Lynn Snodgrass
- STATE TREASURER—(Vote for One)**—Jon Kvistad
- ATTORNEY GENERAL—(Vote for One)**—Kevin L. Mannix
- STATE REPRESENTATIVE, 34TH DISTRICT—(Vote for One)**—Lane Shetterly
- STATE REPRESENTATIVE, 35TH DISTRICT—(Vote for One)**—Debra Ringold
- STATE REPRESENTATIVE, 36TH DISTRICT—(Vote for One)**—Betsy L. Close

List of State Measures and Candidates

NONPARTISAN CANDIDATES

JUDGE OF THE SUPREME COURT, POSITION 2—(*Vote for One*)—Randall H. Niven; Charley Merten; Phillip D. Hatfield; Greg Byrne; Paul J. DeMuniz

JUDGE OF THE SUPREME COURT, POSITION 3—(*Vote for One*)—Robert D. (Skip) Durham

JUDGE OF THE SUPREME COURT, POSITION 6—(*Vote for One*)—Wallace P. Carson, Jr.

JUDGE OF THE COURT OF APPEALS, POSITION 3—(*Vote for One*)—Rives Kistler

JUDGE OF THE COURT OF APPEALS, POSITION 5—(*Vote for One*)—Rick Haselton

JUDGE OF THE COURT OF APPEALS, POSITION 8—(*Vote for One*)—Jack L. Landau

JUDGE OF THE COURT OF APPEALS, POSITION 10—(*Vote for One*)—Rex Armstrong

JUDGE OF THE CIRCUIT COURT, 21ST DISTRICT, POSITION 1—(*Vote for One*)—Robert S. Gardner

JUDGE OF THE CIRCUIT COURT, 21ST DISTRICT, POSITION 3—(*Vote for One*)—Henry R. Dickerson, Jr.

Measure No. 77

Measure No. 77

Senate Joint Resolution 1—Referred to the Electorate of Oregon by the 1999 Legislature to be voted on at the Primary Election, May 16, 2000.

TEXT OF MEASURE

BALLOT TITLE

77 AMENDS CONSTITUTION: MAKES CERTAIN LOCAL TAXING DISTRICTS' TEMPORARY PROPERTY TAX AUTHORITY PERMANENT

RESULT OF "YES" VOTE: "Yes" vote changes portions of certain local districts' property tax authority from temporary to permanent.

RESULT OF "NO" VOTE: "No" vote retains current local districts' temporary and permanent property tax authority.

SUMMARY: Amends Constitution. Adjusts permanent limits on certain local taxing districts' property tax rates to include portions of temporary local option levy approved by voters for the 1997-1998 tax year. Adjustment limited to that portion of the local option levy that was approved in that district as a serial or one-year levy to replace an existing serial or one-year levy. Requires that district's temporary property tax levy authority be reduced by same amount as adjustment made to district's permanent property tax authority.

ESTIMATE OF FINANCIAL IMPACT: This measure affects both the permanent and local option tax rate limits only of Deschutes County, Linn County and the city of Sweet Home. In the first year, 2000-01, this measure will reduce the total authority for these three government units to impose operating taxes by a total of approximately \$624,581. This measure shifts a part of the temporary local option authority of these three units to permanent rate authority. It requires their total tax authority to be reduced as outlined in the 1997 property tax limitation Measure 50. Deschutes County's total tax authority is estimated to be reduced by \$289,415 in 2000-01. Their local option authority expires beginning the following year, 2001-02. Linn County's tax authority is estimated to be reduced by \$397,118 in 2000-01 and \$72,928 in 2001-02. Their tax authority would increase an estimated \$267,472 in 2002-03, depending upon the growth in property values in the county. The city of Sweet Home's tax authority will be reduced by an estimated \$138,076 in 2000-01, \$100,300 in 2001-02, and \$60,635 in 2002-03. Both Linn County's and the city of Sweet Home's local option authority expires beginning the following year, 2003-04.

In subsequent years, revenue estimates depend on whether local voters renew expiring levies. The level of local option tax authority that voters approve will also affect the total tax revenue effects from this measure. This measure does not affect a taxing district's ability to seek additional local option tax authority from local voters. The dollar amount raised from the new permanent tax rate authority established under this measure cannot be increased beyond the growth in assessed value. These estimates assume an assessed value growth of 5% based on historical trends.

There is no financial effect on state government revenue or expenditures.

Be It Resolved by the Legislative Assembly of the State of Oregon:

PARAGRAPH 1. The Constitution of the State of Oregon is amended by creating a new section 11k to be added to and made a part of Article XI, such section to read:

SECTION 11k. (1) For tax years beginning on or after July 1, 2000, notwithstanding section 11 of this Article, a local taxing district shall have a permanent limit on the rate of ad valorem property taxes that is equal to the tax rate that would have been achieved for the tax year beginning July 1, 1997, if that portion of a levy described in paragraph (c) of subsection (7) of section 11 of this Article that represented replacement authority for an expiring serial or one-year levy last imposed in the tax year beginning July 1, 1996, had been treated as a levy described in paragraph (b) of subsection (7) of section 11 of this Article. The levy described in paragraph (c) of subsection (7) of section 11 of this Article, or a successor levy, shall be reduced in the manner provided by law.

(2) Subsection (1) of this section applies only to the permanent rate limit of a local taxing district located in a county in which a local taxing district imposed levies described in paragraph (c) of subsection (7) of section 11 of this Article that were greater than \$1.2 million for the tax year and for which the amount treated as replacement authority exceeded \$900,000.

(3) The Legislative Assembly shall enact legislation to achieve the result described in this section.

PARAGRAPH 2. The amendment proposed by this resolution shall be submitted to the people for their approval or rejection at a special election held throughout this state on the same date as the next biennial primary election.

NOTE: **Boldfaced** type indicates new language; *[brackets and italic]* type indicates deletions or comments.

NO ARGUMENTS IN OPPOSITION TO THIS BALLOT MEASURE WERE FILED WITH THE SECRETARY OF STATE.

Measure No. 77

Measure No. 77

EXPLANATORY STATEMENT

Measure 77 is a Constitutional Amendment designed to fix an unanticipated result when voters approved Ballot Measure 50 in 1997. The measure will impact both the permanent and local option limits of only three taxing districts statewide: Deschutes County, Linn County and the City of Sweet Home.

Services provided by cities, counties and special districts are mainly funded through property taxes. Measure 50 restricts the amount of property taxes these districts can impose within their permanent rate limits. Local voters can also approve temporary tax levies called local option levies. A local option tax is only temporary. It can be renewed by local voters. Currently, both Linn County and City of Sweet Home have local option levies for law enforcement and other services that expire beginning tax year 2003-04. The Deschutes County local option sheriff levy expires beginning tax year 2001-02.

In May 1997 Measure 50 was approved by Oregon voters and at the same election, Deschutes County, Linn County and City of Sweet Home all received voter approval for renewal of their expiring local option levies for law enforcement and other services. The new levies increased the amount of tax imposed instead of merely replacing the expiring levies. Because of the way Measure 50 was written, the newly approved levies were treated as local option taxes instead of being incorporated into the permanent tax rate of each of the three districts. As a result, Deschutes County, Linn County and City of Sweet Home, all have a low permanent tax rate limit but a high local option tax limit.

Measure 77 would change the permanent rate limits and reduce the total taxes of these three taxing districts beginning in tax year 2000-01. This measure transfers temporary local option authority into permanent tax authority. It will reduce each taxing district's local option authority by the amount of the levy that expired June 30, 1997, and incorporate a portion of that levy authority into each district's permanent tax rate limit.

This measure would adjust both the local option and permanent tax rate limits of only Deschutes County, Linn County and the City of Sweet Home.

Committee Members:

Senator Mae Yih
 Representative Ken Strobeck
 Mayor Chuck McLaran*
 Vern Bartley
 Senator Neil Bryant

Appointed By:

President of the Senate
 Speaker of the House
 Secretary of State
 Secretary of State
 Members of the Committee

*Member dissents (does not concur with explanatory statement)

(This committee was appointed to provide an impartial explanation of the ballot measure pursuant to ORS 251.215.)

LEGISLATIVE ARGUMENT IN SUPPORT

A **YES** vote on Measure 77 will eliminate an unfair tax treatment mistakenly imposed by Measure 50 in 1997 to three taxing districts: Deschutes County, Linn County and the City of Sweet Home.

Property Tax Relief

Measure 77 will correct a mistake in Measure 50. The mistake caused property taxes to increase instead of decrease in these three districts after the implementation of Measure 50. In other areas of the state, property taxes on residential property fell by an average of 8% between 1996-97 and 1997-98. However, taxpayers in Deschutes and Linn Counties saw an average increase in their residential property taxes of 2.5% and 1.4% respectively.

Local Voter Support

In the past, Linn and Deschutes county voters have renewed temporary levies indicating their support for stable funding for essential services.

Equal Treatment of Expiring Levies

Districts, which had voter approval for continuing levies without an increase in tax authority, had the expiring levies incorporated into their permanent tax rate limit. Linn and Deschutes Counties and the City of Sweet Home each had increased levy amounts approved by voters in 1997. This resulted in their temporary levies not being included in their permanent rate calculation. Passage of Measure 77 will correct this unequal treatment of levies.

Long Range Planning

Passage of Measure 77 will result in a transfer from temporary to permanent tax authority and reduce overall taxes. Currently, these three districts' temporary levies must be approved in a November general election or with a double majority. Passage of Measure 77 will allow districts to project tax revenues with more certainty and prepare long-term plans for community services.

The 1999 Legislature **unanimously** supported this legislation and referral so all Oregonians could experience property tax relief from Measure 50. Measure 77 will correct this mistake and help return equity and faith in government to all Oregonians.

We need your YES vote to approve Measure 77.

Committee Members:

Senator Mae Yih
 Representative Ken Strobeck
 Representative Ben Westlund

Appointed By:

President of the Senate
 Speaker of the House
 Speaker of the House

(This Joint Legislative Committee was appointed to provide the legislative argument in support of the ballot measure pursuant to ORS 251.245.)

Measure No. 77

Measure No. 77

ARGUMENT IN FAVOR

Measure 50 was passed in 1997 in an effort to provide property tax relief. With the exception of the Deschutes County, Linn County and the City of Sweet Home taxing districts, implementation of the Measure was completed without a major problem.

In these three areas, both voters and government officials were shocked when a complicated quirk in the law dealing with their local law enforcement levies caused property taxes to dramatically increase, instead of decrease. This was clearly a mistake and not the Measure's intent. When the mistake was discovered, work was immediately begun to find a way to correct the problem. Frustration grew when it was learned that the only way to fix the mistake would be through a technical correction involving both legislative action and another full vote of the people.

This is why Measure 77 is now being referred to Oregon's voters. Our Senators and Representatives have already done what they can legislatively. They have also unanimously referred Measure 77 to the voters so that we can complete the process and correct the mistake.

As the Linn County Sheriff, I am very concerned that the people have faith in government. Measure 50 unintentionally caused unfair tax treatment that was very damaging. Measure 77 will correct the mistake caused by Measure 50, provide equity in the treatment of the law enforcement levies and help provide stability for long term funding.

I urge you to vote YES to approve Measure 77.

(This information furnished by David K. Burreight, Linn County Sheriff.)

(This space purchased for \$500 in accordance with ORS 251.255.)

The printing of this argument does not constitute an endorsement by the State of Oregon, nor does the state warrant the accuracy or truth of any statement made in the argument.

ARGUMENT IN FAVOR

Support Property Tax Relief – Vote Yes on Measure 77!

In 1997, when Oregonians voted for Measure 50, they were voting for property tax relief. But because the Legislature made an unintentional mistake in drafting Measure 50, Oregonians in three taxing districts: Deschutes County, Linn County, and the City of Sweet Home, saw an increase in their property taxes.

Measure 77 only impacts Deschutes County, Linn County, and the City of Sweet Home. We are the Senators representing Deschutes and Linn Counties and the City of Sweet Home, and we support Measure 77. Measure 77 was approved unanimously by the 1999 Legislature. It is not a partisan issue. It is about fairness.

Your YES vote on Measure 77 will complete the process of ensuring that every Oregonian will receive the same property tax relief promised under Measure 50.

Your YES vote on Measure 77 will:

- Fix the unintentional mistake in Measure 50 and return fairness to the property tax system.
- Treat the law enforcement levies each district passed under the same rules and help provide stability in long-term funding.
- Permanently ensure the residents of Deschutes and Linn Counties and the City of Sweet Home the property tax reduction they were promised by Measure 50, and help restore faith in government.

At times, the Legislature makes a mistake – now we need to fix it. Please join us in supporting an important fix to an unjust situation. Cast your support for Ballot Measure 77, and end property tax increases for these Oregonians.

VOTE YES ON MEASURE 77!!!

(This information furnished by Senator Neil Bryant, R - Dist 27; Senator Mae Yih, D - Dist 19.)

(This space purchased for \$500 in accordance with ORS 251.255.)

The printing of this argument does not constitute an endorsement by the State of Oregon, nor does the state warrant the accuracy or truth of any statement made in the argument.

Measure No. 78

Measure No. 78

Senate Joint Resolution 3—Referred to the Electorate of Oregon by the 1999 Legislature to be voted on at the Primary Election, May 16, 2000.

Act is passed.

BALLOT TITLE

78 AMENDS CONSTITUTION: LENGTHENS PERIOD FOR VERIFYING SIGNATURES ON INITIATIVE AND REFERENDUM PETITIONS

RESULT OF "YES" VOTE: "Yes" vote lengthens period for verifying initiative, referendum petition signatures from 15 to 30 days.

RESULT OF "NO" VOTE: "No" vote retains current 15-day period for verifying signatures on initiative and referendum petitions.

SUMMARY: Amends Oregon Constitution. The constitution now requires the Secretary of State to determine whether an initiative or referendum petition contains the required number of qualified voters' signatures. The Secretary of State currently must do so within 15 days after the last day the petition may be filed. The measure would extend that period to 30 days after the last day the petition may be filed. The amendment becomes effective June 15, 2000, and applies to petitions filed on or after that date.

ESTIMATE OF FINANCIAL IMPACT: No financial effect on state or local government expenditures or revenues.

(b) A referendum on an Act or part thereof may be ordered by a petition signed by a number of qualified voters equal to four percent of the total number of votes cast for all candidates for Governor at the election at which a Governor was elected for a term of four years next preceding the filing of the petition. A referendum petition shall be filed not more than 90 days after the end of the session at which the Act is passed.

(c) A referendum on an Act may be ordered by the Legislative Assembly by law. Notwithstanding section 15b, Article V of this Constitution, bills ordering a referendum and bills on which a referendum is ordered are not subject to veto by the Governor.

(4)(a) Petitions or orders for the initiative or referendum shall be filed with the Secretary of State. The Legislative Assembly shall provide by law for the manner in which the Secretary of State shall determine whether a petition contains the required number of signatures of qualified voters. The Secretary of State shall complete the verification process within the [15-day] **30-day** period after the last day on which the petition may be filed as provided in paragraph (e) of subsection (2) or paragraph (b) of subsection (3) of this section.

(b) Initiative and referendum measures shall be submitted to the people as provided in this section and by law not inconsistent therewith.

(c) All elections on initiative and referendum measures shall be held at the regular general elections, unless otherwise ordered by the Legislative Assembly.

(d) Notwithstanding section 1, Article XVII of this Constitution, an initiative or referendum measure becomes effective 30 days after the day on which it is enacted or approved by a majority of the votes cast thereon. A referendum ordered by petition on a part of an Act does not delay the remainder of the Act from becoming effective.

(5) The initiative and referendum powers reserved to the people by subsections (2) and (3) of this section are further reserved to the qualified voters of each municipality and district as to all local, special and municipal legislation of every character in or for their municipality or district. The manner of exercising those powers shall be provided by general laws, but cities may provide the manner of exercising those powers as to their municipal legislation. In a city, not more than 15 percent of the qualified voters may be required to propose legislation by the initiative, and not more than 10 percent of the qualified voters may be required to order a referendum on legislation.

(6) Making Signature Gatherers Be Registered Oregon Voters. A person gathering signatures on an initiative or referendum petition shall be registered to vote in this state in the manner provided by law.

SECTION 1d. (1) The amendment to section 1 of this Article by Senate Joint Resolution 3 (1999) applies to any initiative or referendum petition that is filed with the Secretary of State, on or after the effective date of the amendment to section 1 of this Article by Senate Joint Resolution 3 (1999), for the purpose of determining whether the petition contains the required number of signatures of qualified voters.

(2) This section is repealed December 31, 2002.

PARAGRAPH 2. The amendment proposed by this resolution shall be submitted to the people for their approval or rejection at a special election held throughout this state on the same date as the next biennial primary election.

NOTE: **Boldfaced** type indicates new language; [brackets and italic] type indicates deletions or comments.

TEXT OF MEASURE

Be It Resolved by the Legislative Assembly of the State of Oregon:

PARAGRAPH 1. The Constitution of the State of Oregon is amended by creating a new section 1d to be added to and made a part of Article IV, and by amending section 1, Article IV, such sections to read:

Sec. 1. (1) The legislative power of the state, except for the initiative and referendum powers reserved to the people, is vested in a Legislative Assembly, consisting of a Senate and a House of Representatives.

(2)(a) The people reserve to themselves the initiative power, which is to propose laws and amendments to the Constitution and enact or reject them at an election independently of the Legislative Assembly.

(b) An initiative law may be proposed only by a petition signed by a number of qualified voters equal to six percent of the total number of votes cast for all candidates for Governor at the election at which a Governor was elected for a term of four years next preceding the filing of the petition.

(c) An initiative amendment to the Constitution may be proposed only by a petition signed by a number of qualified voters equal to eight percent of the total number of votes cast for all candidates for Governor at the election at which a Governor was elected for a term of four years next preceding the filing of the petition.

(d) An initiative petition shall include the full text of the proposed law or amendment to the Constitution. A proposed law or amendment to the Constitution shall embrace one subject only and matters properly connected therewith.

(e) An initiative petition shall be filed not less than four months before the election at which the proposed law or amendment to the Constitution is to be voted upon.

(3)(a) The people reserve to themselves the referendum power, which is to approve or reject at an election any Act, or part thereof, of the Legislative Assembly that does not become effective earlier than 90 days after the end of the session at which the

Measure No. 78

Measure No. 78

EXPLANATORY STATEMENT

Measure 78 amends the Oregon Constitution to give the Secretary of State 15 more days to verify whether a state initiative or referendum petition contains the required number of qualified signatures. This measure has been referred by the Legislature to the voters at the request of the Secretary of State.

The Oregon Constitution allows the people to directly propose laws and constitutional amendments through the initiative power. The people may also approve or reject certain laws passed by the Legislative Assembly through the referendum power. The people may propose an initiative law or amendment, or may order a referendum, by a petition signed by a specified number of qualified voters. If the petition contains the required number of signatures, an election is held on the proposed law or constitutional amendment.

Petitions containing the signatures of qualified voters must be filed with the Secretary of State before the deadline described in the Constitution. The Constitution now requires the Secretary of State to determine whether a filed initiative or referendum petition contains the required number of signature within 15 days after the deadline for filing the petition.

Measure 78 extends the time period for verifying signature from 15 to 30 days after the deadline for filing the petition. This measure does not shorten the time for filing petitions for signature verification and makes no other change in the initiative or referendum process.

If approved by voters, Measure 78 takes effect June 15, 2000, and applies to initiative and referendum petitions filed for signature verification on or after that time. The current 15 day provision will apply to initiative and referendum petitions filed for signature verification prior to June 15, 2000.

Committee Members:

Senator Charles Starr
 Representative Kevin L. Mannix
 Don McIntire
 Lloyd Marbet
 David Hunnicutt

Appointed By:

President of the Senate
 Speaker of the House
 Secretary of State
 Secretary of State
 Members of the Committee

(This committee was appointed to provide an impartial explanation of the ballot measure pursuant to ORS 251.215.)

LEGISLATIVE ARGUMENT IN SUPPORT

We urge a "Yes" vote on Ballot Measure 78.

Ballot Measure 78 changes the time allowed for the Secretary of State to verify signature petitions from 15 days to 30 days. Ballot Measure 78 does not change the time proponents have for filing initiative or referendum petitions and makes no other change in the initiative or referendum process.

Under the best of circumstances, the task of verifying the number signatures of qualified voters within the current 15-day constitutional timeline is difficult. As the number of initiative and referendum petitions filed has increased and the process has become increasing litigious, the difficulty of meeting the timeline for signature verification has increased also.

The Secretary of State and the County Clerks, who must verify the signatures, asked for the additional 15 days. The extra time will allow them to respond to the unexpected issues that sometimes arise in the verification process and to ensure the utmost integrity in the process while still meeting the constitutional timeline. The Legislature agrees that this is a reasonable request.

Again, we urge a "Yes" vote on Ballot Measure 78.

Committee Members:

Senator Charles Starr
 Representative Richard Devlin
 Representative Kevin L. Mannix

Appointed By:

President of the Senate
 Speaker of the House
 Speaker of the House

(This Joint Legislative Committee was appointed to provide the legislative argument in support of the ballot measure pursuant to ORS 251.245.)

Measure No. 78

Measure No. 78

ARGUMENT IN FAVOR

ARGUMENT IN OPPOSITION

Ballot Measure 78 Ensures Fairness

Argument Against Measure 78

Ballot Measure 78 would amend the Oregon Constitution allowing the Secretary of State's office 30 days to verify signatures in order to qualify ballot measures. A 15-day increase would not be intrusive to the initiative process and would ensure that each signature in a random sample is verified correctly.

A portion of the 1st Amendment of the U.S. Constitution affirms the right of the people "to petition Government for the redress of grievances." It should be clearly understood the first ten amendments comprising the Bill of Rights are only amendments in spirit. In order to gain ratification a number of States demanded the Bill of Rights as a condition of approval for at the Conventions adopting the U.S. Constitution. The citizens of this nation were concerned about misconstruction or the abuse of powers by government. These concerns were conveyed by the Congress in 1789 recommending approval of the Bill of Rights.

The Oregon Constitution states that a qualifying initiative petition must submit a list of signatures equal to eight percent of the total number of qualified voters who cast votes for all gubernatorial candidates at the last governor's election. According to the 1998 election, this number is equal to 89,048 valid signatures in order for a measure to qualify. The Oregon Secretary of State's office must verify these signatures. If this verification process was not in place, signatures could be duplicated, forged, or solicited out of state, negatively impacting our general government.

With the growth of government it has become increasing difficult, if not unsuccessful at times, to address achieve "redress of grievances" at the state and federal level. Due to differences of interpretation and opinions even statewide initiatives have been twisted or ignored for various reasons; some of which are good reasons.

Currently, The Oregon Constitution provides only 15 days--less than a month--for the Secretary of State to process and verify random samples of proposed qualifying signatures. This amount of time was adequate in previous years when only a few initiatives managed to qualify for the ballot. However, recent elections have shown that the number of people participating in the initiative petition process is growing. This development is creating serious problems for the verification process.

Those that sponsor this measure, I believe, think that we the people of Oregon are not intellectually astute, thus are not capable of governing ourselves. This is just not true. Indeed, we the people of Oregon are in touch and do have a grasp of reality, probably better than the sponsors of this measure. We have just become discouraged and down trodden by many oppressive and unnecessary laws and policies. When these laws and policies need amendment or down right removal, the elected officials in our Government should comply with our mandate and not attempt to reinterpret our actions or motivations or ignore us completely. As they have found criticism with that method, they now attempt to bog down the process of initiative petition by requiring an undefined and ever changing number of signatures to bring measures before the people.

The Secretary of State's office is forced to employ temporary workers and pay gross amounts of overtime in order to process signatures in the given 15 day period. Ballot Measure 78 would positively impact the initiative process. The extra 15 days would help the Secretary of State's office cut overtime costs and streamline efficiency.

You are urged to oppose Measure 78.

The answer to solving this problem is clear. If you want the initiative process to be properly verified with the greatest amount of diligence and you want a just verification process that does not cut corners and cost taxpayers, then Ballot Measure 78 is the correct choice.

Respectfully submitted,

Vote Yes on 78.

Peggy L. Boquist
Dallas, Oregon

(This information furnished by Bob Shiprack, Oregon Building Construction & Trades Council.)

(This information furnished by Peggy L. Boquist, Dallas, Oregon.)

(This space purchased for \$500 in accordance with ORS 251.255.)

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Measure No. 79

Measure No. 79

House Joint Resolution 21—Referred to the Electorate of Oregon by the 1999 Legislature to be voted on at the Primary Election, May 16, 2000.

which is to approve or reject at an election any Act, or part thereof, of the Legislative Assembly that does not become effective earlier than 90 days after the end of the session at which the Act is passed.

BALLOT TITLE

79 AMENDS CONSTITUTION: INCREASES SIGNATURES REQUIRED TO PLACE INITIATIVE AMENDING CONSTITUTION ON BALLOT

RESULT OF "YES" VOTE: "Yes" vote increases number of signatures required to place initiative to amend constitution on ballot.

RESULT OF "NO" VOTE: "No" vote rejects increasing signatures required to place initiative to amend constitution on ballot.

SUMMARY: Amends constitution. Currently, initiative to amend Oregon Constitution can be placed on the ballot by a petition signed by a number of qualified voters equal to 8 percent of the total number of votes cast for all candidates at last election for Governor. Measure increases number of signatures required to place initiative to amend constitution on ballot to 12 percent of total number of votes cast for all candidates at last election for Governor. Applies to initiative submitted for vote after November 2000 election.

ESTIMATE OF FINANCIAL IMPACT: No financial effect on state government expenditures or revenues.

Counties are estimated to incur an additional \$4,300, statewide, once every two years in additional signature verification costs.

(b) A referendum on an Act or part thereof may be ordered by a petition signed by a number of qualified voters equal to four percent of the total number of votes cast for all candidates for Governor at the election at which a Governor was elected for a term of four years next preceding the filing of the petition. A referendum petition shall be filed not more than 90 days after the end of the session at which the Act is passed.

(c) A referendum on an Act may be ordered by the Legislative Assembly by law. Notwithstanding section 15b, Article V of this Constitution, bills ordering a referendum and bills on which a referendum is ordered are not subject to veto by the Governor.

(4)(a) Petitions or orders for the initiative or referendum shall be filed with the Secretary of State. The Legislative Assembly shall provide by law for the manner in which the Secretary of State shall determine whether a petition contains the required number of signatures of qualified voters. The Secretary of State shall complete the verification process within the 15-day period after the last day on which the petition may be filed as provided in paragraph (e) of subsection (2) or paragraph (b) of subsection (3) of this section.

(b) Initiative and referendum measures shall be submitted to the people as provided in this section and by law not inconsistent therewith.

(c) All elections on initiative and referendum measures shall be held at the regular general elections, unless otherwise ordered by the Legislative Assembly.

(d) Notwithstanding section 1, Article XVII of this Constitution, an initiative or referendum measure becomes effective 30 days after the day on which it is enacted or approved by a majority of the votes cast thereon. A referendum ordered by petition on a part of an Act does not delay the remainder of the Act from becoming effective.

(5) The initiative and referendum powers reserved to the people by subsections (2) and (3) of this section are further reserved to the qualified voters of each municipality and district as to all local, special and municipal legislation of every character in or for their municipality or district. The manner of exercising those powers shall be provided by general laws, but cities may provide the manner of exercising those powers as to their municipal legislation. In a city, not more than 15 percent of the qualified voters may be required to propose legislation by the initiative, and not more than 10 percent of the qualified voters may be required to order a referendum on legislation.

(6) Making Signature Gatherers Be Registered Oregon Voters. A person gathering signatures on an initiative or referendum petition shall be registered to vote in this state in the manner provided by law.

SECTION 1d. (1) The amendment to section 1 of this Article by House Joint Resolution 21 (1999) does not apply to any initiative petition that, if filed with the Secretary of State with the required number of signatures of qualified voters, will be submitted to the people at the general election held on the first Tuesday after the first Monday in November 2000.

(2) The amendment to section 1 of this Article by House Joint Resolution 21 (1999) does apply to any initiative petition that, if filed with the Secretary of State with the required number of signatures of qualified voters, will be submitted to the people at a general election occurring after the first Tuesday after the first Monday in November 2000, regardless of when the prospective petition for the initiative petition is filed.

(3) This section is repealed December 31, 2002.

PARAGRAPH 2. The amendment proposed by this resolution shall be submitted to the people for their approval or rejection at a special election held throughout this state on the same date as the next biennial primary election.

NOTE: **Boldfaced type** indicates new language; [brackets and italic] type indicates deletions or comments.

TEXT OF MEASURE

Be It Resolved by the Legislative Assembly of the State of Oregon:

PARAGRAPH 1. The Constitution of the State of Oregon is amended by creating a new section 1d to be added to and made a part of Article IV, and by amending section 1, Article IV, such sections to read:

Sec. 1. (1) The legislative power of the state, except for the initiative and referendum powers reserved to the people, is vested in a Legislative Assembly, consisting of a Senate and a House of Representatives.

(2)(a) The people reserve to themselves the initiative power, which is to propose laws and amendments to the Constitution and enact or reject them at an election independently of the Legislative Assembly.

(b) An initiative law may be proposed only by a petition signed by a number of qualified voters equal to six percent of the total number of votes cast for all candidates for Governor at the election at which a Governor was elected for a term of four years next preceding the filing of the petition.

(c) An initiative amendment to the Constitution may be proposed only by a petition signed by a number of qualified voters equal to [eight] 12 percent of the total number of votes cast for all candidates for Governor at the election at which a Governor was elected for a term of four years next preceding the filing of the petition.

(d) An initiative petition shall include the full text of the proposed law or amendment to the Constitution. A proposed law or amendment to the Constitution shall embrace one subject only and matters properly connected therewith.

(e) An initiative petition shall be filed not less than four months before the election at which the proposed law or amendment to the Constitution is to be voted upon.

(3)(a) The people reserve to themselves the referendum power,

Measure No. 79

Measure No. 79

EXPLANATORY STATEMENT

Measure 79 amends the Oregon Constitution to increase the number of signatures needed to place an initiative amendment to the Oregon Constitution on the ballot.

The Oregon Constitution allows the people to directly propose amendments to the Oregon Constitution through the initiative process. The people may propose an initiative amendment to the Constitution by a petition signed by a specified number of qualified voters. If the petition contains the required number of signatures, an election is held on the proposed amendment.

Currently, to qualify for the ballot, a petition amending the Constitution must be signed by a number of qualified voters equal to eight percent of the total number of votes cast for all candidates for Governor at the last election at which a Governor was elected for a full term.

Measure 79 increases the number of signatures required for initiative amendments to the Constitution from eight percent to 12 percent of the total number of votes cast for all candidates for Governor at the last election at which a Governor was elected for a full term.

If approved, Measure 79 applies only to initiative amendments to the Constitution to be voted on after the November 2000 general election.

Committee Members:

Senator Neil Bryant
 Representative Max Williams
 Representative Ben Westlund
 Senator Rick Metsger
 Representative Lane Shetterly

Appointed By:

President of the Senate
 Speaker of the House
 Secretary of State
 Secretary of State
 Members of the Committee

(This committee was appointed to provide an impartial explanation of the ballot measure pursuant to ORS 251.215.)

LEGISLATIVE ARGUMENT IN SUPPORT

Vote "Yes" on Measure 79.

Measure 79 protects the initiative process and the Oregon Constitution

The Oregon Constitution is the fundamental document of state government describing the rights of Oregonians and the duties of government. Only the people can amend the Constitution, not the legislature.

The initiative process has become a favorite tool of special interests

Oregonians adopted the initiative process to limit the influence of special interests. However, with voter turnout at historically low levels, it has become easier to qualify an initiative for the ballot, and the initiative has become a favorite tool of special interests. When a poorly drafted initiative becomes part of the Constitution, it can only be fixed by yet another constitutional amendment.

Oregon has a very low signature requirement

A statutory initiative requires the signatures of qualified voters equal to six percent of the total votes cast in the most recent election for governor. A constitutional initiative requires the signatures of qualified voters equal to only eight percent of the total votes cast. The low signature requirement for constitutional amendments encourages petitioners to use constitutional initiatives even when the proposed change should be made by statute.

Initiatives clutter the Constitution

Since 1992, almost 60 percent of initiatives qualified for the ballot have proposed constitutional amendments. Issues addressed in constitutional initiatives currently approved for signature gathering include a gross receipts tax, growing marijuana, prepayment of state real estate loans, and collective bargaining.

Measure 79 improves the initiative process

By increasing the signature requirements for constitutional initiatives, Measure 79 encourages statutory changes and discourages unnecessary and inappropriate constitutional amendments.

Vote "Yes" on Measure 79.

Committee Members:

Senator Neil Bryant
 Representative Lane Shetterly
 Representative Max Williams

Appointed By:

President of the Senate
 Speaker of the House
 Speaker of the House

(This Joint Legislative Committee was appointed to provide the legislative argument in support of the ballot measure pursuant to ORS 251.245.)

Measure No. 79

Measure No. 79

ARGUMENT IN FAVOR

Vote Yes on Ballot Measure 79

This election year, approximately 45 initiative petitions are being actively circulated for qualifying signatures. The Oregon Constitution stipulates that a number equal to only 8%, less than 1/10th of Oregonians who voted in the last gubernatorial election, is needed in order for an initiative petition to qualify for the ballot.

Previously, the Oregon Initiative Process was seen as a last resort for citizens to act. On occasion, the Oregon Legislature was unable to come to a decision on an issue the people of Oregon found very important. Citizens would circulate a petition and the people of Oregon would vote their conscience.

Fast forward to present day Oregon. The Initiative Process is a business used as a way to usurp the public meeting process and general government. Our legislature is designed to make many of the decisions currently being circulated as initiative petitions. These issues require direct knowledge of the Oregon Constitution, they take time to decipher and time to form an opinion. Don't we elect legislators to do this job?

Chief petitioners are circulating petitions and paying companies and individuals to collect signatures for any legal idea they can get a petition for. We find petitioners at the grocery store, coffee shop and any other public venue that might yield an unwitting signature. While none of this is illegal, it is certainly reprehensible.

Ballot Measure 79 is one small step toward alleviating this growing nuisance. By increasing the number of signatures needed to verify a ballot by a mere 4%, Oregonians can retake control of their government. Increasing the number of signatures will ensure that at least 12% of recent voting Oregonians have an opportunity to decide what they vote on in the next election. A ballot measure should have to qualify with at least 1/10th of the state's voting population.

Vote yes on Measure 79.

(This information furnished by Bob Shiprack, Oregon Building Construction & Trades Council.)

(This space purchased for \$500 in accordance with ORS 251.255.)

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ARGUMENT IN FAVOR

THE AMERICAN CIVIL LIBERTIES UNION OF OREGON URGES YOU TO VOTE YES ON MEASURE 79

- **Measure 79 will help protect the Oregon Bill of Rights.** Do you remember Measures 9 & 13—the Oregon Citizens Alliance anti-gay ballot measures from 1992 and 1994? Both of those divisive initiatives were proposed constitutional amendments. They were designed to partially repeal the basic rights of all Oregonians that have been in our constitution since 1859. **Measure 79 would require groups like the OCA to prove they have more support from voters before such divisive measures could reach the ballot.**

- **Measure 79 would protect our basic rights.** Very few states make it as easy as Oregon does to amend its constitution through the initiative process. **Of the more than 160 proposed initiatives already filed with the Secretary of State in this election cycle, 105 are proposed constitutional amendments!** Amending the Constitution shouldn't be something we do on a whim. **It shouldn't be so easy to take away our basic rights.**

- **Measure 79 will help avoid costly mistakes.** Too many initiatives have put provisions in the Constitution that should have been statutes. Measure 17, the prison work amendment, has had to go back to voters twice since it was first passed in 1994 to fix mistakes. If Measure 17 hadn't been a constitutional amendment, the Legislature could have easily made those changes and we wouldn't have needed costly new elections.

MEASURE 79 WILL RESTORE NEEDED BALANCE TO THE INITIATIVE PROCESS VOTE YES ON MEASURE 79

(This information furnished by David Fidanque, American Civil Liberties Union of Oregon.)

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Measure No. 79

Measure No. 79

ARGUMENT IN FAVOR

**Former Senator Mark Hatfield
Speaks Out on Measure 79**

I am asking you to vote YES on Measure 79. Let me explain why.

Like the U.S. Constitution, Oregon's constitution is the fundamental law of the land in Oregon. Unlike the U.S. Constitution, which is difficult to amend, Oregon's constitution has become increasingly easy to change using ballot initiatives.

Between 1950 and 1990, initiatives were used to amend the Oregon constitution twice every ten years on average. But since 1990, the constitution has been amended 11 times by initiative. Thankfully, many more constitutional initiatives were defeated by voters. But the onslaught continues. This year a record 105 proposed constitutional initiatives have been filed as of March 2. Many are measures drafted by special interests to circumvent the checks and balances built in to Oregon's constitution to protect against bad laws. Oregonians deserve better, and so does our constitution.

The fact is, it's just too easy for a special interests to put measures on the ballot. Measure 79 will make it bit more difficult.

Measure 79 increases the required number of valid voter signatures on an initiative for a constitutional amendment from 8 percent to 12 percent of votes cast in the previous election for governor. It's not a huge increase, but it will help reduce the volume of ballot proposals aimed at changing the constitution that provides the basic framework for governing our state and the basic rights of its citizens. Protect those basic rights from special interests that want to change them.

Please join me in voting YES on Measure 79.

Mark O. Hatfield

(This information furnished by Mark O. Hatfield.)

(This space purchased for \$500 in accordance with ORS 251.255.)

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ARGUMENT IN FAVOR

The purpose of Measure 79 is to encourage sponsors of initiative petitions to submit their measures as statutes rather than constitutional amendments.

More than 100 initiatives that would amend the Oregon Constitution have been filed for the November 2000 general election. Many of the initiated constitutional amendments propose public policies and programs that would more appropriately be enacted as statutes. Sponsors of these measures are obviously trying to bypass the deliberation, checks and balances and public input opportunities built into the regular legislative process.

This is creating several problems:

- Some initiated amendments have drafting errors and ambiguities that can be corrected only by subsequent constitutional amendments, which the voters may or may not enact. (Example: tax limit Measure 47 of 1996, which had to be completely rewritten and resubmitted by the 1997 legislature).
- Changing times and circumstances create new needs that can be addressed only by subsequent constitutional amendments. (Example: the 1984 lottery amendment which has required two subsequent amendments to expand the purposes for which lottery revenue may be used.)
- Some initiated amendments have been found to be inconsistent with federal law and required further amendments to cure the defects. (Example: Measure 17 of 1994, requiring full time work or training for prison inmates).

A constitution is supposed to establish the fundamental framework for state government: its organization structure, limitations on its powers, basic processes for exercising its powers, and the rights of citizens against the government. Ordinary statutes put into the constitution evade substantive judicial review for consistency with these basic principles.

Measure 79 would still leave Oregon with lower signature requirements than Arizona and Oklahoma, which require 15 percent for a constitutional amendment.

Let's end abuses of the initiative process: your vote for Measure 79 will help.

Katherine Eaton	Dave Frohnmayer
Albert Kitzhaber	Annabel Kitzhaber
Hugh McKinley	Joe Richards
Jean Tate	Ken Tollenaar
Jim Torrey	

(This information furnished by Ken Tollenaar.)

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Measure No. 79

Measure No. 79

ARGUMENT IN FAVOR

Former Secretary of State Supports Measure 79

Fellow Oregonians:

As Oregon's former Secretary of State (1991-99), I'm supporting Measure 79 because it better protects Oregon's Constitution – our basic framework document of citizen rights and government limits. It deserves our strong support.

During the last decade, almost 60 percent of the 48 initiatives considered by voters proposed to amend Oregon's Constitution.

Some of those proposals -- such as term limits -- needed to be constitutional amendments to take effect.

But many, many others had utterly no business being part of Oregon's Constitution, even if you believed they were terrific ideas.

Forcing insurance companies to reimburse chiropractors a certain way. Requiring annual testing of students. Prohibiting certain union payroll deductions. And on and on.

Over and over, advocates of this and that cause have tried to turn Oregon's Constitution into a giant corkboard, full of various policy post-it notes and thumbtacks representing this or that "hot button" cause of the moment.

That's inexcusable – and a real danger to our rights as citizens.

When inappropriate laws are forced into the Constitution, Oregon's own Bill of Rights can no longer serve as a protection again unwarranted government intrusion.

It can also be costly in other ways. When such initiatives are poorly drafted, a special election is often required to correct mistakes, at a cost of more than \$1 million.

Measure 79 won't completely "fix" the problem of inappropriate Constitutional amendments – but it will help a great deal.

For regular laws – so called "statutory" changes – initiative proponents now need valid signatures equal to 6 percent of the votes cast in the previous governor's race.

Constitutional amendments currently require just 8 percent. Measure 79 keeps the 6 percent threshold for regular law changes – but increases the 8 percent "constitutional" threshold to 12 percent, reducing Constitutional clutter and diverting initiative energies into the more appropriate, statutory realm.

Vote yes for Constitutional integrity – and common sense. Vote Yes on Measure 79.

Phil Keisling

(This information furnished by Phil Keisling.)

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ARGUMENT IN FAVOR

Oregon League of Women Voters Supports Measure 79

The Oregon League of Women Voters has carefully reviewed Ballot Measure 79. We believe it is an appropriate and helpful protection to make sure the Oregon constitution isn't easily changed at the whim of any special interest group.

Our constitution is the basic framework of state government and the source of important protections for our basic rights as citizens.

Measure 79 is not a limit on direct democracy, but an encouragement to petitioners to propose changes to state statutes rather than the constitutional amendments. Statutory changes may more readily respond to change if times warrant changes. Statutory changes are subject to checks and balances provided in our constitution. Constitutional initiatives avoid those checks and balances, leaving the constitution vulnerable to faulty wording, frivolous ideas and bad law.

Oregon's process for amending the constitution by initiatives is one of the easiest processes in the country. More than 100 initiatives that would amend the Oregon constitution have been filed for the November 2000 General Election. Passage of Measure 79 hopefully will reduce the number of constitutional amendments on the ballot.

Please join us in voting YES on Measure 79.

(This information furnished by Paula Krane, President, League of Women Voters of Oregon.)

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Measure No. 79

Measure No. 79

ARGUMENT IN FAVOR

The statewide bipartisan Oregon Initiative Committee supports Ballot Measure 79, and we want to tell you why.

The Oregon Constitution is Oregon's charter of government and citizen rights. Amending it should be more difficult than passing a law.

It's too easy to amend Oregon's Constitution by the initiative. It takes 6% of the last vote for governor (66,786 signatures) to put a law on the ballot, but only 8% (89,048 signatures) to put an amendment on the ballot. The difference in signatures is so slight that many initiators pay no attention to it. Why do they go for amendment? Because a constitutional amendment, unlike a law, can only be corrected or repealed by another constitutional amendment.

Look at what is happening. As of March 1, 2000, 162 ballot measures were filed for the November 2000 ballot, double the number filed by that date in 1998. 100 of the measures filed are proposed constitutional amendments! 30 of these amendments were filed by Bill Sizemore, 22 of them jointly with Becky Miller. 9 more were filed by Becky Miller alone or jointly with Stuart Miller. Another 10 have been filed by Don McIntire. While some have been withdrawn, and others will not get enough signatures to make the ballot, the numbers are startling.

Crowding the ballot with proposed amendments means less attention to each one and greater risk that damaging amendments will slip through. Amending our Constitution should be deliberative, cautious and more difficult than passing a law.

Ballot Measure 79 is a simple, straight forward way to stop overuse of the initiative to amend the Constitution. Let's raise the signature requirement for amendment from 8% to 12%. Vote YES for 79.

(This information furnished by Donald J. Sterling, Jr., John C. Beatty, Jr., William W. Wyse, Cory Streisinger; Oregon Initiative Committee.)

ARGUMENT IN OPPOSITION

Measure 79 is a power grab by state politicians that turns the principle of "of the people, by the people, and for the people" on its head. *The Oregon Constitution is a contract between the people of Oregon and their government, and voters have the right to amend this contract to meet the people's needs.* Measure 79 would drastically reduce the number of citizen-initiated amendments that make the ballot, while leaving legislators free to put as many amendments on the ballot as they choose. *In deed, during the same session in which legislators approved making it more difficult for citizens to amend the constitution, they passed 19 constitutional amendments of their own.*

This is not just hypocritical, but also a dangerous power grab. Politicians don't put amendments on the ballot that challenge their own power, or challenge the power of the special interests that fund their campaigns. Voters need a mechanism to amend their contract with their government that doesn't depend on career politicians, government employees or lobbyists – that's why I&R is so important. Measure 79 keeps citizen amendments off the ballot, leaving the ballot (and the constitution) in the hands of politicians and not the people.

It is already very difficult for citizens to put amendments on the ballot. *Citizens have placed only 130 amendments on the ballot since 1902, and only 45 have passed.* In contrast, the legislature during that time put 299 amendments on the ballot – almost three a year. Only 300 initiatives (both statutory and amendment) have been on the Oregon ballot in the last 100 years and voters have only approved 110 of them – about one citizen-initiated law a year. In contrast, the Oregon legislature considered 3,091 laws in 1997 alone, passing 871 of them. Thus, in only ONE year the legislature passed eight times as many laws as the voters did in 100 years!

The Oregon Constitution belongs to the people, not politicians.

(This information furnished by M. Dane Waters, Initiative & Referendum Institute.)

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Measure No. 79

Measure No. 79

ARGUMENT IN OPPOSITION

In 1999 the Oregon Legislature placed this measure on the ballot. It is supported by an unholy alliance of big business, big labor and elitists of both political parties. Measure 79 would turn our Clock back to before 1902 when the People adopted a constitutional amendment allowing the People to initiate constitutional and legislative changes. This People's right has worked well. There is no need for this radical change that would increase the signature requirements for initiated constitutional amendments by 50%.

With our present right to amend the constitution and to change laws Oregonians have done wonderful things. We preserved the right to refer all tax measures, adopted our first corrupt election practices act and the right to recall public officials, and gave women the right to vote. Under the change proposed by this measure those great victories would have been unlikely.

Initiating a constitutional amendment has become increasingly expensive. With rare exceptions only wealthy persons, big corporations or large labor organizations can provide the money for obtaining the signatures. This change would make it almost impossible for a citizen's group to place a constitutional amendment on the ballot. It would be no problem for the wealthy!

During the past 20 years some radical changes have been made to our constitution, all sponsored by wealthy special interests, including property tax measures 5 and 47 which have had a disastrous impact on our public school finance systems, including our community colleges.

Notwithstanding the recent U.S. Supreme Court decision allowing states to limit campaign contributions to candidates, an Oregon Supreme Court constitutional interpretation prohibits such a limitation. It would not be possible in Oregon unless we amend our constitution.

This measure would make it almost impossible to change those provisions.

Sincerely, Vern Cook, former State Senator and candidate for election to the State Senate, District 28. Contact me at (503)665-8143, FAX 665-8145, E-Mail cookv@teleport.com and see Web Page at www.verncooklaw.com with your support.

(This information furnished by Vern Cook.)

ARGUMENT IN OPPOSITION

RALPH NADER'S STATEMENT OPPOSING MEASURE 79

Measure 79 is a naked power grab by the Legislature and the corporate vested interests which have historically dominated it. The power they seek for themselves has been reserved by and for the people for nearly a century.

In 1902, the people of Oregon rose up against their domination by the railroads, banks, and big corporations. The people created for themselves the power of the initiative in order to bypass a legislature corrupted by vested interests.

The legislature has long coveted this power that the people reserved for themselves, and has considered many restrictions on initiative power, each designed to tip the balance of power away from the people and toward the legislature. In 1996, the legislature proposed Measure 24, which would have enhanced legislative power at the expense of citizens and communities. Special interests funded a lavish campaign for Measure 24, but voters wisely – and overwhelmingly – rejected it.

Measure 79 is yet another attempt to expand legislative power by crippling the citizens' initiative rights. Measure 79 would increase the number of signatures required for a constitutional amendment by 50 percent. This would have a devastating impact on the power of ordinary citizens and grassroots groups, yet those with big bankrolls could still employ paid petitioners to get on the ballot. With the threat of constitutional amendments diminished, the legislature would feel more free to amend or overrule statutory initiatives that had been passed by vote of the people.

Oregonians nearly one hundred years ago reclaimed political power for themselves. The real agenda of those promoting Measure 79 is to deceive the people into restricting those political rights that their great grandparents struggled so hard to secure for them.

No on 79!

(This information furnished by Ralph Nader.)

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Measure No. 79

Measure No. 79

ARGUMENT IN OPPOSITION

The Coalition for Initiative Rights urges "NO" on 79

The Coalition for Initiative Rights is composed of groups and individuals of the right, left, and center who are united in their determination to defend the citizens' right to the initiative process that Oregonians created nearly 100 years ago.

There are two kinds of initiatives: statutory and constitutional. If a statutory initiative is passed, the legislature can change it. Constitutional initiatives cannot be changed without a vote of the people.

Measure 79 would increase by **50 percent** the number of signatures required to put a constitutional initiative on the ballot.

The legislature has shown its contempt for the will of the people by avoiding or overturning measures passed by the people. When the people voted for assisted suicide, the legislature put the measure back on the ballot for a new vote. When the people voted to prevent utilities from requiring ratepayers to pay for abandoned nuclear plants, the legislature passed a law requiring ratepayers to pay for profit on the abandoned Trojan plant until 2011.

If Measure 79 should pass, there would be no effective check on the power of the legislature, and those with the resources to buy legislative power will have us at their mercy.

If Measure 79 should pass, those voluntary efforts and grass-roots groups which should be the heart of the initiative system will wither away, and the initiative process will become the reserve of those big corporations and wealthy individuals who can afford to hire paid petitioners.

The initiative system was designed to give power to ordinary people.

Measure 79 would cut the heart out of the initiative process by taking power that belongs to the people and giving it to the legislature and the powerful few who have long ruled in Salem.

NO on 79!

(This information furnished by Lloyd K. Marbet, Coalition for Initiative Rights.)

(This space purchased for \$500 in accordance with ORS 251.255.)

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ARGUMENT IN OPPOSITION

DON'T BE FOOLED!

VOTE NO ON 79

A statement by Lloyd K. Marbet

During the last legislative session, when Legislators were busy creating 79, they were also forcing ratepayers to pay hundreds of millions of dollars in profit to PGE/Enron for abandoning Trojan. The Legislature overturned Ballot Measure 9, a statutory law created by initiative in 1978, that prohibited utilities from charging you for something that you didn't build, you didn't break, and doesn't work

**Did the Legislature ask if you wanted to pay for Trojan: NO!
Did they ask if you wanted to change your law: NO!**

This is why Oregonians turn to their Constitution when they sponsor initiatives.

IT FORCES THE LEGISLATURE TO ASK YOU FIRST!

In 1996, the City Club of Portland considered the impact of increasing signature requirements to amend Oregon's Constitution. They found:

Such changes would simply increase the power and advantage of individuals or interests with money compared with individuals or interests with less or no resources.

Measure 79 turns our Constitution over to big monied interests! IT STOPS YOU FROM AMENDING THE CONSTITUTION BUT IT DOESN'T STOP THEM! Corporations and rich people will have no problem circulating constitutional initiatives!

If the Legislature had respect for the will of the people, and were willing to address our concerns, we wouldn't need an initiative process! If the Legislature had respect for the legislative powers of the people, it would refer substantive changes to initiative laws back to a vote of the people. This would reduce the need for Oregonian's to amend their Constitution. In the words of Thomas Jefferson:

I know no safe depository of the ultimate powers of the society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but inform their discretion.

VOTE NO on 79

Phone: 503-637-6130
Email: marbet@mail.com

(This information furnished by Lloyd K. Marbet.)

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Measure No. 79

Measure No. 79

ARGUMENT IN OPPOSITION

ARGUMENT IN OPPOSITION

VOTE NO ON 79

THE LEGISLATURE ONLY WANTS YOU TO PASS LAWS THAT THEY CAN CHANGE.

IT DOESN'T EVEN ADDRESS THE REAL PROBLEM!

The proponents of 79 want to raise **by 50%** the number of signatures needed to qualify a constitutional initiative for the ballot. They think there are too many initiatives being filed to amend your Constitution.

Those pesky voters! They keep trying to control their own destinies. They keep trying to make their own decisions about which direction their state will go. When will they shut up and let us politicians make all the decisions?

Why do Oregonians choose to amend their Constitution rather than file a statutory initiative? Sadly a constitutional initiative stands a better chance of preventing the legislature from tinkering with it. Take the example of Ballot Measure 9 which was passed into law in 1978. Ballot Measure 9 put limitations on what private utilities could charge ratepayers for in their rate base; **such as preventing PGE/Enron from charging a profit on dead nuclear plants.**

Sound arrogant? Sure does. But apparently, that's what a lot of politicians in Salem think. They see too much self-government going on in Oregon and they don't like it.

In 1999, the Legislature passed House Bill 3220 which overturned Ballot Measure 9. If Ballot Measure 9 had been drafted as a constitutional amendment, rather than a statutory law, the Legislature would have had to refer House Bill 3220 to a vote of the people. Since Measure 9 was a statutory law, the Legislature didn't bother to ask you if you wanted to change it, even though in 1978, Measure 9 was passed by an overwhelming margin of 2 to 1.

The amazing thing about the legislature's attitude toward initiatives is that they are patting us voters on the back and insulting us at the same time. Apparently, when we vote on ballot measures we are the ignorant masses, incapable of making intelligent decisions regarding matters of public policy. But when we come to the part of the ballot where we choose which politicians will make all those decisions for us, suddenly we are astute voters who make wise decisions.

Stop the Legislature from overturning the will of the people!

Truth is, the politicians in Salem consider the initiative process a threat to their power, which was what it was intended to be; a way of reminding the state legislature that we the people are the ones who gave them their power; and that we have the right to limit that power when we see fit.

If the Legislature was required to seek voter approval of changes to statutory laws passed by initiative, the number of constitutional initiatives would drop dramatically.

Why did the legislature place Measure 79 on the ballot? Because they want voters to place statutory measures on the ballot; not constitutional amendments. Why? Because the legislature can change voter approved statutory laws, if they don't like them.

BUT DON'T HOLD YOUR BREATH

You can bet the Legislature won't restrict itself!

VOTE NO ON 79!

When we pass a statutory measure, the legislature has a choice. They can accept the law. They can change it. Or they can throw it out.

"I believe there are more instances of the abridgment of the freedom of the people by gradual and silent encroachments of those in power than by violent and sudden usurpations."
President James Madison

However, the legislature cannot change a voter approved constitutional law. They have to accept the will of the voters.

Please, don't weaken the only tool we voters have to keep the legislature in line. Preserve Oregon's initiative process. Vote "No" on Measure 79.

(This information furnished by Andrew V. Reid.)

(This information furnished by Bill Sizemore, Executive Director, Oregon Taxpayers United.)

(This space purchased for \$500 in accordance with ORS 251.255.)

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Measure No. 79

Measure No. 79

ARGUMENT IN OPPOSITION

This measure takes away your rights and gives them to special interests

This measure won't stop wealthy special interests from using the initiative process, but it will guarantee that they're the only ones who can. If this measure passes it will increase the cost of putting a measure on the ballot from about \$125,000 to \$200,000. This isn't a big problem for the wealthy special interests who back some initiative campaigns.

But it would be a very big problem for everyday people. People who brought us things like vote by mail.

The initiative process is for the people, not wealthy special interests - that's why special interest groups want you to vote for this measure.

The whole point of the initiative process is that it grants everyday people the power to be full participants in our government - to bring our ideas before the public for debate and a vote. Oregonians have traditionally prized the people's initiative process as a way to accomplish important things that we believe in.

But if we pass this measure, it will increase by 50% the number of signatures needed for everyday people to put their ideas on the ballot. That means increasing the cost by 50% - or even more!

It is already nearly impossible for average Oregonians to put a measure on the ballot. This measure will make it even more difficult for average citizens, but will do little to slow down the special interest groups from pushing their agenda. Imagine if you wanted to put your idea before the voters and you had to come up with an extra \$75,000 beyond what you would have to pay currently. This would be the death knell for most citizen campaigns.

And who would be left? The wealthy special interests. Should they be the only ones allowed to use our initiative process?

Please vote NO on 79.

(This information furnished by Dave Hunnicutt, Oregonians in Action PAC.)

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ARGUMENT IN OPPOSITION

MEASURE 79 DOES NOT PROTECT THE OREGON CONSTITUTION

The political establishment will try to persuade you that the state legislature only placed Measure 79 on the ballot to protect the sanctity of the Oregon Constitution.

They want voters to believe that we need to protect that "sacred document" from all those special interest groups who are cluttering our constitution with ordinary laws.

However, the idea that state constitutions are sacred documents that should only contain basic principles regarding the structure of government and the basic rights of citizens is groundless. Numerous national studies have found that most state's use their constitutions to enshrine ordinary laws that they simply do not want the state legislature to change.

Oregon's constitution is no different. Want to limit the growth of property taxes or income taxes? You had better place the limit in the constitution or the politicians will ignore it. Want to limit the number of terms legislators can serve and keep the legislature a citizen legislature? Better place the limits in the constitution, or legislators will ignore it.

Why? The state legislature can change any statutory law they want; voter-approved or not. But they can't change laws that are placed in the constitution. Perhaps that's the real reason why the legislature wants to make it much more difficult to place constitutional amendments on the ballot.

Indeed, there is a sacred political document that we should protect; that we should not amend lightly: That document is the U.S. Constitution, the one document that enshrines the basic rights of all Americans. Everything in the Oregon Constitution is subject to the U.S. Constitution. Compared to the U.S. Constitution, the Oregon Constitution is merely "state law."

Frankly, it is hypocritical to claim that Measure 79 is an attempt to preserve the Oregon Constitution. It is not. It is merely an attempt by the state legislature to weaken the initiative process, because that process is a threat to their power.

(This information furnished by Becky Miller, Oregon Taxpayers United.)

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Measure No. 79

Measure No. 79

ARGUMENT IN OPPOSITION

Large corporations and special interest groups can control the legislature but they can't control the voters. The initiative system is a threat to their power. That is why they have pressured the legislature to put this measure on the ballot.

It didn't take much arm twisting though. After all, the politicians in Salem view the initiative system as a threat to **their** power too. **And isn't power what this measure is really all about?**

All this measure will do is prevent the everyday citizen from putting an initiative on the ballot by making it more expensive. So you may have one or two less initiatives on the ballot, but the ones you do have will be paid for by many of the same big corporations and special interest groups that want you to pass this measure. **More Power!**

You and I can't hire some high powered lobbyist to go to Salem and twist arms. That is why we have the initiative system. Do you really want to lose that?

The backers of this measure will tell you that it will prevent the huge number of initiatives cluttering up the ballot (**most of which were put there by the legislature and won't be affected by this measure**). They will try to convince you that you don't like voting on all these issues.

But let's be honest with ourselves. Oregonians like having a say on important issues. Oregon's initiative system works and it works well.

Let's send a message to the power-hungry bureaucrats and lobbyists in Salem. **Tell them to keep their hands off our initiative system! VOTE NO on Measure 79!**

(This information furnished by Adam Mayer, State Chairman, Libertarian Party of Oregon.)

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ARGUMENT IN OPPOSITION

PLEASE, NO MORE PETITIONERS!

I'm voting against this measure for one reason: I'm sick of being accosted by paid petition circulators everywhere I go.

It's bad enough that we have to deal with these mercenaries for a few months every two years. But if Measure 79 passes, we may have to put up with them year round!

The U.S. Supreme Court has ruled that we can't prohibit paid petitioners, and we cannot even require that they be registered voters. So now we have paid petitioners coming to Oregon from California, Alabama, Illinois, and everywhere else under the sun. Enough, already.

I don't want Oregon to be the best employment opportunity in the country for these people, so why would I support increasing the number of signatures that have to be gathered to place a measure on the ballot? The number is high enough already. Already, eighty percent of the initiatives never make it to the ballot in spite of the army of paid petitioners out there tugging at our pant legs every time we go to the grocery store.

Measure 79 requires 50% more signatures to get a measure on the ballot. If it passes, petition drives will have to start a lot sooner, and we will have many more months of petitioners hanging out in front of grocery stores and post offices, and on every other street corner, just waiting for some hapless shopper to accidentally make eye contact.

No thanks. There are enough paid petitioners already. That's why I'm voting NO on Measure 79.

(This information furnished by Leese Beaudoin.)

(This space purchased for \$500 in accordance with ORS 251.255.)

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Measure No. 79

ARGUMENT IN OPPOSITION

Measure 79 would increase by 45,000 the number of signatures required on an initiative, raising it to 134,000 for any measure to amend the constitution.

The Legislature put this measure on this ballot to increase its own power and the power of the special interests that run the place with their campaign contributions and lobbying. Legislators get huge campaign contributions and "gifts" from the big utilities and corporations who want special treatment, and they get it.

If the big money boys win on Measure 79, they will try more schemes to destroy democracy in Oregon. They will have more power than ever before:

- **power to raise your phone bills**
- **power to increase your electricity and gas rates**
- **power to ruin the forests**
- **power to pollute the air and water**
- **power to raise your taxes, while cutting their own**

Every measure on this statewide ballot was created by the Legislature, not by the initiative. The 1999 Legislature put 21 of its own measures on this ballot and on the November 2000 ballot, without collecting even one signature. So far, not a single initiative has qualified for the ballot this year, because it is hard to get enough signatures unless you pay for them.

Making supporters collect 45,000 more signatures will be no problem for the big money corporations and utilities. They will just buy more signatures. It will hurt only the grass-roots efforts by groups that are not funded by special interests.

The people cannot rely only on initiatives that adopt statutes. Because the courts and the Legislature routinely invalidate statutory initiatives. The 1999 Legislature, for example, nullified Measure 9 of 1978 (prohibiting charging ratepayers for dead power plants) in order to allow PGE to charge an additional \$304 million to ratepayers for the nuclear broken hulk of Trojan. In 1997, the Oregon Supreme Court in 1997 nullified Measure 9 of 1994 (campaign finance reform).

VOTE NO

(This information furnished by Dan Meek, Voters Net (www.voters.net.)

(This space purchased for \$500 in accordance with ORS 251.255.)

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Measure No. 80

Measure No. 80

Senate Joint Resolution 11—Referred to the Electorate of Oregon by the 1999 Legislature to be voted on at the Primary Election, May 16, 2000.

BALLOT TITLE

80 AMENDS CONSTITUTION: AUTHORIZES USING FUEL TAX, VEHICLE FEES FOR INCREASING HIGHWAY POLICING

RESULT OF "YES" VOTE: "Yes" vote authorizes using fuel tax, motor vehicle fees for increasing policing of highway system.

RESULT OF "NO" VOTE: "No" vote rejects allowing fuel tax, vehicle fee use for increasing policing of highway system.

SUMMARY: Amends Constitution. Currently constitution authorizes use of revenues from fuel tax and motor vehicle fees for: construction, reconstruction, improvement, repair, maintenance, operation, use of public highways, roads, streets, roadside rest areas; administration costs; highway bond retirement; certain parks and recreation costs. Measure authorizes additional use of such revenues to increase policing of public highways, roads, streets, roadside rest areas by sworn law enforcement officers. Requires that such use increase police agency budgets to provide service levels not previously authorized by budgets on measure's effective date.

ESTIMATE OF FINANCIAL IMPACT: This measure, alone, has no financial effect on state or local government expenditures or revenues. It allows the legislature to spend Highway Fund monies on additional highway patrol services. Local governments would also be authorized to spend road funds on additional patrol duties.

TEXT OF MEASURE

Be It Resolved by the Legislative Assembly of the State of Oregon:

PARAGRAPH 1. Section 3a, Article IX of the Constitution of the State of Oregon, is amended to read:

Sec. 3a. (1) Except as provided in subsection (2) of this section, revenue from the following shall be used exclusively for the construction, reconstruction, improvement, repair, maintenance, operation and use of public highways, roads, streets and roadside rest areas in this state:

(a) Any tax levied on, with respect to, or measured by the storage, withdrawal, use, sale, distribution, importation or receipt of motor vehicle fuel or any other product used for the propulsion of motor vehicles; and

(b) Any tax or excise levied on the ownership, operation or use of motor vehicles.

(2) Revenues described in subsection (1) of this section:

(a) May also be used for the cost of administration and any refunds or credits authorized by law.

(b) May also be used for the retirement of bonds for which such revenues have been pledged.

(c) If from levies under paragraph (b) of subsection (1) of this section on campers, mobile homes, motor homes, travel trailers, snowmobiles, or like vehicles, may also be used for the acquisition, development, maintenance or care of parks or recreation areas.

(d) If from levies under paragraph (b) of subsection (1) of this section on vehicles used or held out for use for commercial purposes, may also be used for enforcement of commercial vehicle weight, size, load, conformation and equipment regulation.

(e) May also be used for sworn law enforcement officers for policing of public highways, roads, streets and roadside rest areas. Revenues authorized to be used under this paragraph may be used only to increase the budgets for police agencies in order to provide levels of service not authorized by the budgets in effect on the effective date of this amendment.

PARAGRAPH 2. The amendment proposed by this resolution shall be submitted to the people for their approval or rejection at a special election held throughout this state on the same date as the next biennial primary election.

NOTE: **Boldfaced** type indicates new language; [*brackets and italic*] type indicates deletions or comments.

EXPLANATORY STATEMENT

Section 3a, Article IX of the Oregon Constitution, specifies the way governments may use revenues collected from motor vehicle fuel taxes and other taxes and fees on motor vehicles. Under the current provision, the revenues may be used for the construction, reconstruction, improvement, repair, maintenance, operation and use of public highways, roads, streets and roadside rest areas in this state. Ballot Measure 80 proposes an amendment to this section to allow revenues from motor vehicle fuel taxes and from other taxes or fees imposed on motor vehicles to be used for policing highways, roads, streets and roadside rest areas. The revenues may not replace moneys currently appropriated for police agencies but may only be used to increase service levels from the levels in effect on the effective date of the amendment.

Committee Members:

Senator Lenn Hannon
 Representative Juley Gianella
 Representative Jeff Kruse
 Senator Joan Dukes
 Senator Marylin Shannon

Appointed By:

President of the Senate
 Speaker of the House
 Secretary of State
 Secretary of State
 Members of the Committee

(This committee was appointed to provide an impartial explanation of the ballot measure pursuant to ORS 251.215.)

NO ARGUMENTS IN OPPOSITION TO THIS BALLOT MEASURE WERE FILED WITH THE SECRETARY OF STATE.

Measure No. 80

Measure No. 80

LEGISLATIVE ARGUMENT IN SUPPORT

ARGUMENT IN FAVOR

We urge a "Yes" vote on Ballot Measure 80.

THIS MEASURE DOES "NOT" RAISE TAXES!

Funding for patrol of Oregon's highways has declined dramatically while population and highway use have soared

A primary duty of Oregon law enforcement agencies is to provide a uniformed patrol presence on Oregon's highways to increase traffic safety, enforce laws and respond to emergencies. Prior to 1980, the Oregon Constitution permitted the use of the State Highway Fund to support the Oregon State Police. Funding for the State Police was removed from the list of authorized uses of the Highway Fund by a joint resolution referred by the Legislature for a vote of the people.

Since that funding change:

- Population has increased over 23 percent;
- The number of registered vehicles has increased over 45 percent;
- The number of licensed drivers has increased over 33 percent; and
- The miles traveled on Oregon highways have increased over 64 percent.

During the same time, the patrol strength of the State Police has been reduced by 37 percent!

A "Yes" vote will provide a consistent, visible uniformed patrol presence on Oregon highways to improve traffic safety, save lives and reduce crime

Ballot Measure 80 will permit state and local jurisdictions to use revenue from fuel taxes and motor vehicle fees (the Highway Fund) to pay for policing Oregon's highways. It will not, however, require any governing body to use Highway Funds for this purpose. By authorizing funds for patrol activity from the Highway Fund, we can ensure a stable, long-term source of funding. By restoring a consistent, visible uniformed patrol presence on Oregon's highways, we can improve traffic safety, save lives and reduce crime. Ballot Measure 80 is written so that funding can be used to increase service levels, but the funds cannot replace funds currently appropriated for police agencies.

Again, we urge a "Yes" vote on Ballot Measure 80.

Committee Members:	Appointed By:
Senator Lenn Hannon	President of the Senate
Representative Juley Gianella	Speaker of the House
Representative Jeff Kropf	Speaker of the House

(This Joint Legislative Committee was appointed to provide the legislative argument in support of the ballot measure pursuant to ORS 251.245.)

ARGUMENT IN FAVOR OF MEASURE 80

POLICING

One word, policing, when RESTORED to the Oregon Constitution, regarding the use of the highway funds, will make our freeways and highways safer.

NO NEW TAXES ARE REQUIRED.

If you've seen road rage, excessive speed, following too close and reckless driving, think what more and more traffic will mean. Passing Measure 80 will put more officers on the roads to help stop these hazards.

Oregon Department of Transportation transfers money from highway funds to city and county governments for street and road-work. In its 1999-2000 budget, ODOT projects transfer of \$326 million to the counties and \$191 million to the cities. Passing Measure 80 will allow city police and county sheriffs to seek some of this money from their governing agencies to hire additional officers for road and street patrols.

The Oregon State Police will have to work with the Governor and the Oregon Legislature to secure money from the highway fund for additional troopers. The cost of more troopers will have a minimal impact on the highway fund as ODOT web site shows \$1.398 BILLION for highways in its 1999-2000 budget.

Our personal concern is with officer safety. Since 1980 Oregon State Police presence on Oregon highways has declined 34 percent, while licensed drivers have increased over 30 percent. Backup for an officer is seriously lacking for both county sheriff's deputies and state police troopers, which puts them at unacceptable risk.

Please reverse this very serious loss by voting yes on Measure 80.

Submitted by Lloyd and Lolita Clodfelter in memory of OSP Senior Trooper Bret R. Clodfelter and his late wife, Clackamas County Reserve Deputy René K. Clodfelter. Lloyd and Lolita are co-founders of Help Our Troopers, and currently serve as President and Secretary.

(This information furnished by Lloyd and Lolita Clodfelter.)

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Measure No. 80

Measure No. 80

ARGUMENT IN FAVOR

The Oregon State Police Officers' Association respectfully asks that you vote **YES** on Ballot Measure 80.

As police officers, every day we see the grim statistics in life and death situations on your highways. Incidents of ROAD RAGE are no longer isolated, as reported by Oregonians who confront it on a daily basis.

Because of increasing pressure on the State's General Fund to provide financing for our schools, your Oregon law enforcement community asked the 1999 Oregon Legislature to support a measure which would allow State, County, and City police agencies in Oregon to once again access the Highway Fund. The purpose is to increase policing of public streets, roads, highways, and roadside rest areas.

The 1999 Oregon Legislature passed the measure (SJR11) and referred it to you as Ballot Measure 80. If passed, it would allow the use of already collected gas taxes to fund increased patrols on your streets, roads, highways, and roadside rest areas if approved by the appropriate elected officials.

Ballot Measure 80:

- **DOES NOT** increase your taxes.
- **DOES NOT** allow police agencies to replace/backfill their current budgets with highway fund monies.
- **DOES NOT** require any governing body to use their highway funds for policing.
- **DOES NOT** change the primary use of highway fund revenues for construction, improvement, reconstruction, repair, etc.

Ballot Measure 80:

- **DOES** allow police agency heads to seek approval from their governing bodies to add new law enforcement officers for policing of streets, roads, highways, and roadside rest areas.

Your safety is very important to us. We believe there are three prongs to safe highways: Engineering, Education, and Enforcement. Engineering and Education are currently provided for in the highway fund. You can help your Oregon law enforcement to increase safety on our streets, roads, highways, and roadside rest areas by voting **YES** on Ballot Measure 80.

(This information furnished by James Botwinis, Oregon State Police Officers' Association.)

ARGUMENT IN FAVOR

The "Citizens for safe streets, roads and highways" urges you to vote YES on ballot measure 80 on election day.

Ballot Measure 80, was passed by the 1999 Oregon Legislature as a means of providing an additional funding source for traffic safety enforcement at all levels of government in Oregon.

Ballot Measure 80:

- Does not change the primary use of Highway Fund revenues for construction, improvement, reconstruction, repair, etc.
- Allows that revenues used can only be for sworn law enforcement officers and only for the purpose of policing of public highways roads streets and roadside rest areas.
- Allows decisions to use the Highway revenues for traffic safety to be made at the local levels.
- Will allow that revenues may be used only to increase the budgets for police agencies in order to provide levels of service not authorized by budgets in effect on the effective date of this amendment.
- A YES VOTE on this measure would allow a Chief of Police, Sheriff or the Superintendent of State Police to go to their respective governing bodies and request these additional revenues.

Example:

A city police chief has received complaints from citizens of their concern for increasing traffic violations within the city. The accident rate has increased along with the population. The Chief has determined that a police officer dedicated to traffic enforcement would assist in solving the problem. The chiefs budget cannot support another police officer position. The chief could go to the city council and request funds for the additional officer from their portion of the Highway revenues that they receive from the state.

- This ballot measure does not require that any governing body use their portion of the Highway revenues for this purpose
- There are no additional taxes attached to this measure

(This information furnished by Glen Rader, Jr., Citizens For Safe Streets, Roads and Highways.)

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Measure No. 80

Measure No. 80

ARGUMENT IN FAVOR

GOVERNOR ATYIEH SAYS VOTE YES ON MEASURE

In 1980, as Governor of Oregon, the word "policing" was removed from the Oregon constitution for what Highway funds could be used for.

At that time we had experienced gas rationing, odd and even license days, and long lines at the gas station. This experience meant that the revenues from our gas tax both at the state and federal level were drastically reduced.

Times have changed. Our Oregon law enforcement community patrolling Oregon's streets, roads, and highways have dramatically declined while the population and highway use have soared.

A YES vote will provide a consistent, visible uniform patrol presence on Oregon streets, roads, and highways, to improve traffic safety, save lives and reduce crime.

THIS BALLOT MEASURE WILL NOT RAISE YOUR TAXES

By authorizing funds for patrol activity from the Highway Fund, we can ensure a stable, long-term source of funding that our police need.

A YES VOTE ON BALLOT MEASURE 80 IS NOT JUST A GOOD THING TO DO, IT IS THE RIGHT THING TO DO.

VICTOR ATYIEH

(This information furnished by Victor Atiyeh.)

ARGUMENT IN FAVOR

The Oregon State Sheriffs Association supports Ballot Measure 80, and urges you to vote **YES on Measure 80.**

Measure 80 would allow cities and counties to use some of their share of the Highway Trust Fund dollars to pay for police officers and deputies to patrol our public streets, county roads, state and interstate highways, and rest areas. Measure 80 would also allow the Oregon Legislature to use money from the Highway Trust Fund to put more State Troopers on the road.

Measure 80 **does not** require state or local governments to use Trust Fund dollars, it simply gives them the option. The decision is left up to the local city council or county commission to decide what is best at the local level, and leaves the decision to the Legislature at the state level.

Measure 80 **does not** raise you taxes one cent! Measure 80 simply gives state and local governments more flexibility in the use of existing funds.

Measure 80 **does not** mean that important transportation or construction projects will be cancelled. Measure 80 simply follows the premise that local communities know best what their needs are, and gives local communities the greatest flexibility possible in addressing those needs. If a local community decides that it is more important to pay for a lane widening project, or an intersection improvement project, nothing in Ballot Measure 80 would stop that. If, however, the local community felt it were more important to provide speed patrols in school zones, or provide 24 hour police response on rural roads, they could choose to do so.

We want the Citizens of Oregon to know that you and your families can travel Oregon in safety, and that when you need help that you can count on us to be there quickly

We are not asking you for more money, we are asking you to let us do more with what you have given us.

Vote YES on 80.

(This information furnished by Arthur Martinak, The Oregon State Sheriffs Association.)

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Measure No. 80

ARGUMENT IN FAVOR

Dear Oregonians:

I am proud to support Ballot Measure 80. It would provide an option for using highway funds for enforcement of traffic laws. Oregonians should be able to travel safely on our road system, and I believe adequate funding for state, county and city police traffic patrols is essential to improving highway safety. With more and more cars on the road each day, there is a clear need for increased patrols, especially in those areas designated as safety corridors.

Highway safety is a function of three things, engineering, education, and enforcement. Today we do a good job designing safe roads and we do a good job of ensuring that drivers understand their obligations to safely operate motor vehicles. However, we are not doing as good a job at providing for enforcement of our traffic laws and service to our citizens on our highways. Measure 80 can help us improve our level of patrol service.

It is important to understand that Measure 80 does not raise gas taxes and it does not require a penny to be spent on law enforcement. Rather, the measure is permissive and leaves funding decisions to state and local budget processes. I would not be asking you to support this measure if it required the diversion of funds from road system maintenance and construction.

As Governor, my priority for gas tax funds is our road system. At the same time I cannot ignore the necessity of providing a road system that is safe for our families to travel. Measure 80 would protect the lives of Oregonians by providing us with the flexibility to address critical highway safety issues.

This is why I am supporting Measure 80 and this is why I am asking you to join me in supporting this measure to improve our ability to protect the lives and safety of all Oregonians.

Sincerely

John A. Kitzhaber
Governor of Oregon

(This information furnished by John A. Kitzhaber.)

(This space purchased for \$500 in accordance with ORS 251.255.)

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Measure No. 81

Measure No. 81

House Joint Resolution 2—Referred to the Electorate of Oregon by the 1999 Legislature to be voted on at the Primary Election, May 16, 2000.

EXPLANATORY STATEMENT

BALLOT TITLE

81 AMENDS CONSTITUTION: ALLOWS LEGISLATURE TO LIMIT RECOVERY OF DAMAGES IN CIVIL ACTIONS

RESULT OF "YES" VOTE: "Yes" vote adds constitutional provision allowing legislature to limit recovery of damages in civil actions.

RESULT OF "NO" VOTE: "No" vote retains restrictions on legislature's authority to limit recovery of damages in civil actions.

SUMMARY: Amends Constitution: Under the Oregon Constitution, the right to jury trial restricts the legislature's authority to limit recovery of some kinds of damages in some civil actions. This measure overrides that restriction by adding a new constitutional provision expressly allowing the legislature to impose limits on damages that may be recovered in any civil action.

ESTIMATE OF FINANCIAL IMPACT: This measure, alone, has no financial effect on state or local government expenditures or revenues. It allows the legislature to limit recovery of damages in civil actions.

The Oregon Constitution guarantees a right to a jury trial.

One element of the right to a jury trial is that the amount of damages assessed in most civil cases must be decided on the facts of each case by a jury.

Under the Oregon Constitution, the guarantee of a right to jury trial restricts the Legislature's authority to set limits on the amount of damages in most civil cases.

Measure 81 would amend the Oregon Constitution to give the Legislature the discretion to enact laws setting limits on damages in all civil cases.

Committee Members:

Senator Neil Bryant
 Representative Max Williams
 Representative Floyd Prozanski
 Senator Kate Brown
 Dominick Vetri

Appointed By:

President of the Senate
 Speaker of the House
 Secretary of State
 Secretary of State
 Members of the Committee

(This committee was appointed to provide an impartial explanation of the ballot measure pursuant to ORS 251.215.)

TEXT OF MEASURE

Be It Resolved by the Legislative Assembly of the State of Oregon:

PARAGRAPH 1. The Constitution of the State of Oregon is amended by creating a new section 34 to be added to and made a part of Article IV, such section to read:

SECTION 34. Notwithstanding any other provision of this Constitution, the Legislative Assembly by law may impose limitations on the damages that may be recovered in civil actions.

PARAGRAPH 2. The amendment proposed by this resolution shall be submitted to the people for their approval or rejection at a special election held throughout this state on the same date as the next biennial primary election.

NOTE: **Boldfaced** type indicates new language; [brackets and *italic*] type indicates deletions or comments.

Measure No. 81

Measure No. 81

LEGISLATIVE ARGUMENT IN SUPPORT

ARGUMENT IN FAVOR

Vote "Yes" on Measure 81 to maintain balance in our trial system

In 1987, Oregon's elected Legislature passed a series of legal reforms designed to protect many of the rights we all enjoy today.

Background

A recent Oregon Supreme Court ruling found statutory limits on damages in civil lawsuits to be unconstitutional. This decision threatens Oregon's civil legal system of checks and balances by virtually eliminating the role of the legislative and executive branches in defining boundaries and protections related to civil lawsuits.

In 1999, Oregon's Supreme Court said that only the people of Oregon, by amending the state's Constitution, could guarantee these rights.

Since the Oregon Constitution was approved in 1857, Oregon has passed many laws to protect Oregonians from unfair or frivolous lawsuits and unlimited liability. If the principle involved in the Supreme Court ruling is applied in the future, many of these reforms and protections could be eliminated.

The following protections that we all enjoy are now at risk unless we pass Measure 81:

Protections in jeopardy

The legal protections now in jeopardy include safeguards for: "Good Samaritans," volunteers, charities and nonprofit organizations serving the public good; firefighters, police officers, teachers and other public employees performing their duties; and farmers and landowners voluntarily opening their land for public recreation and habitat improvements. Our workers' compensation system could also be undermined.

Protections for volunteers and "Good Samaritans"

- Volunteers transporting elderly and disabled persons
- Citizens and officials who report abuse of children
- "Good Samaritans" who provide emergency medical assistance
- Contributors of food and goods to charitable organizations
- Veterinarians providing emergency care to animals

Other important reforms in jeopardy serve to hold down insurance premiums related to liability and litigation for employers. If these reforms are struck down, consumers and taxpayers may face increased costs for insurance, health care and many other products and services.

Protections for Charities and Non-profit Organizations

- Food banks
- Organizations that distribute donated clothing and other items

Measure 81 resolves this uncertainty

Court challenges to clarify these public policy issues would be costly to citizens, to government and to the court system. Measure 81 resolves this uncertainty by maintaining a person's right to a jury trial while affirming existing laws protecting Oregonians from unfair and unlimited lawsuits that could otherwise burden Oregon's courts and increase costs for Oregon consumers, taxpayers and businesses.

Protections for Witnesses and Court Officials

- Court appointed special advocates
- Persons reporting information to health professional regulatory boards
- Witnesses testifying before legislative committees

Measure 81 will keep these protections in place, and will preserve fairness and balance in our civil justice system.

Protections for Health Care Providers

- Physicians and nurses donating their services to charitable groups
- Health care providers providing medical records relating to child abuse
- Physicians reporting blood alcohol levels to police after accidents
- Physicians providing volunteer services at school athletic events

Again, vote "Yes" on Measure 81 to maintain balance in our trial system

The Oregon Supreme Court says we must amend the Constitution to retain our rights.

By voting YES on 81, we can keep these protections.

Committee Members:

Senator Neil Bryant
 Representative Max Williams
 Representative Kevin L. Mannix

Appointed By:

President of the Senate
 Speaker of the House
 Speaker of the House

(This Joint Legislative Committee was appointed to provide the legislative argument in support of the ballot measure pursuant to ORS 251.245.)

By voting YES on 81, we retain the Oregon system of justice.

(This information furnished by Mary Burry, MD, Medical Society of Metropolitan Portland.)

(This space purchased for \$500 in accordance with ORS 251.255.)

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Measure No. 81

Measure No. 81

ARGUMENT IN FAVOR

END LAWSUIT ABUSE

We've all read the new stories. Somebody sues for millions because of some minor offence. And they win.

The American dream is no longer, "Work hard or invent a better mousetrap, and some day you too could be successful or even wealthy." Today it's, "**Sue somebody rich, and you too could be a millionaire.**"

We've allowed our legal system to be turned into a sort of lottery for plaintiffs. Sue somebody and the prize could be millions.

But the prize money in this "legal abuse lottery game" does not appear out of thin air. We are the ones paying it. Notice how much insurance costs these days? Notice how much doctors and hospitals charge? **Prices have skyrocketed. And one of the primary factors is lawsuit abuse.**

Huge damages are awarded for "pain and suffering," and all those insurance companies which are forced to pay out the big "prize money" increase their premiums. Then the doctors, hospitals, manufacturers, and stores, who pay the skyrocketing insurance premiums, raise their prices. We the American consumer are the ones who really pay for the lawsuit abuse.

Of course, large damage awards are sometimes justifiable. When innocent people are hurt because of someone else's negligence, it is only right that those at fault pay reasonable damages. But we are way past that point. **America has become the most lawsuit happy nation in the world.**

What feeds all this? Greedy trial lawyers. You can find a lawyer to sue almost anyone - even if you don't have a case. **For 30 percent of whatever damages they recover, ambulance chasing lawyers will sue pretty much anybody for pretty much any amount.**

Measure 81 gives the legislature the authority to place reasonable limits on the damages that can be awarded in civil actions. It doesn't take away any citizen's right to recover real damages when they have been harmed. **It simply allows the system to be brought back into balance.**

(This information furnished by Kelli Highley, Oregonians Against Lawsuit Abuse.)

ARGUMENT IN FAVOR

FIREFIGHTERS AND POLICE OFFICERS ASK YOU TO VOTE YES ON MEASURE 81

Trial lawyers have found a loophole that threatens to eliminate existing laws that protect fire, police and other public safety employees from unfair or frivolous lawsuits. We face a loss of important legal protections — unless voters close this loophole by passing Measure 81.

ON-THE-JOB PROTECTIONS ARE NOW AT RISK

Over the past three decades, laws have been passed that allow Oregon's working public safety employees to do our jobs without the threat of unlimited lawsuits. When we're on the scene helping people, we know that we can only be held personally liable if we are found to be reckless or negligent. That's fair to us and that's fair to all Oregonians that we serve and protect.

Unless voters pass Measure 81, all existing restraints on damage awards could be eliminated. And, we could be held personally liable. This would force us to pay unlimited financial awards out of our own pockets. That's not fair to us and that's not fair to the people in need of our help.

YES ON 81 HELPS US PROTECT AND SERVE YOU

Already, the lawyers' loophole has been used as the basis to allow a lawsuit against six public employees — with no limit on how much they each might have to pay. Measure 81 will close the lawyers' loophole, protecting public safety and other public employees from unfair lawsuits and unlimited damage awards.

A YES vote on Measure 81 will keep reasonable protections from unlimited, unfair and frivolous lawsuits for Oregon's public safety employees.

Please join us in voting YES on 81.

Oregon Volunteer Firefighters Association

Oregon Fire Chiefs Association

Sheriffs of Oregon

Oregon Police Chiefs for Safer Communities

(This information furnished by C. Scott R. Gallant, Yes on 81 Committee, Inc.)

(This space purchased for \$500 in accordance with ORS 251.255.)

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Measure No. 81

Measure No. 81

ARGUMENT IN FAVOR

Over 80 Laws Protecting Oregonians Against Unlimited Lawsuits are Now Threatened by the Trial Lawyers

Partial List

- **“Good Samaritans” and EMTs** providing emergency medical services
- **Firefighters, police, teachers and other public employees** working within the scope of their jobs
- **Farmers** who allow the public to use their land for recreational and educational activities
- **Volunteers** transporting elderly and disabled people
- **Nurses and doctors** donating their services to charitable groups
- **Charitable and non-profit organizations** distributing donated food and household goods
- **Sponsors** of rodeos, fairs, parades and other non-profit events
- **Veterinarians** providing emergency care to animals
- **Landowners** who voluntarily improve fish and wildlife habitats
- **Physicians** volunteering at school athletic events
- **Disaster relief volunteers** providing transportation or engineering services
- **Public officials** who report abuse or neglect of children or the elderly

YES on 81...Keep These Protections in Place

YES on 81...Protect Consumers and Taxpayers from Unlimited Lawsuits

Yes on Ballot Measure 81 Committee

(This information furnished by C. Scott R. Gallant, Yes on 81 Committee, Inc.)

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ARGUMENT IN FAVOR

Oregon Retirees Urge YES on Measure 81 — Keep the Lid on Higher Insurance Costs

Trial lawyers' are trying to put the squeeze on our wallets to line their own pockets.

Lawyers have dug up a legal loophole that would give them a blank check to sue anyone for any amount of money. If you don't think that affects you, think again. Each and every one of us will pay unless we pass Measure 81.

You don't have to be a mathematician to figure out what it's going to cost us. Unless Measure 81 is passed, we could be facing a long and costly list including:

- higher health insurance costs
- higher homeowners' insurance costs
- higher auto insurance costs

We could be looking at hundreds of dollars in additional costs per year. This is money that Oregonians of all ages could put to far better use than increasing lawyers' paychecks.

Retirees could also face higher prescription drug costs and fewer home services. Unless we close the lawyers' loophole by passing Measure 81, a number of existing legal protections are threatened that could put our well-being at risk. Here are a few examples:

- Laws limiting liability for responsible drug manufacturers could be eliminated, leaving us with higher costs for essential medications.
- Protections for volunteers who drive four million miles each year to bring seniors and the disabled to medical appointments and volunteer hundreds of thousands of hours to help with other needed services could be wiped out.

Vote YES on Measure 81. Protect your wallet and your well-being.

Retirees for YES on Measure 81,

Peggi Timm, Retired
Former State Director, Volunteer Program

John Brenne
Senior Citizen Activist

Bernie Agrons, Retired
Former Oregon State Representative

Genevieve W. Jernstedt, Retired
Former Chairman
Board of Medical Examiners

(This information furnished by C. Scott R. Gallant, Yes on 81 Committee, Inc.)

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Measure No. 81

ARGUMENT IN FAVOR

Search & Rescue Volunteers Support YES on Measure 81

Search and rescue here in Oregon is run and staffed by volunteers. We are trained to assist stranded or injured people from mountains and forests.

Last year alone, Oregon search and rescue teams completed 651 missions, often under extreme conditions. We volunteers put our lives on the line to help anyone in need.

When we go out on missions, we don't think about lawyers and lawsuits. Our focus is strictly on getting that person back home safe and sound.

Fortunately for search and rescue teams and other emergency relief volunteers in Oregon, our state respects what we do. This is clear from the laws put in place to protect us from unfair or frivolous lawsuits.

Unfortunately, trial lawyers have come up with a legal loophole that could wipe out existing laws that safeguard those of us who give our time and best efforts to help others in need.

Unless Measure 81 is passed, we could be left out in the cold with no protection from unlimited lawsuits and unlimited financial payments.

We will continue to conduct search and rescue missions — come trial lawyers or lawsuits. We face tougher opponents every time we go out to bring a lost or hurt skier, hiker or snowmobiler back home.

We're trained to fight the elements and nature's other obstacles. But, we need your help — and the help of voters throughout Oregon — to win out over the trial lawyers.

Please keep existing legal protections for volunteers, non-profit groups and all "Good Samaritans" in place.

YES on Measure 81: Protect search and rescue volunteers from unlimited lawsuits.

Pacific Northwest Search & Rescue

Mt. Hood Snowmobile Club

(This information furnished by C. Scott R. Gallant, Yes on 81 Committee, Inc.)

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Measure No. 81

ARGUMENT IN FAVOR

OREGON'S FAMILY FARMERS: YES ON 81

Trial lawyers have found a new loophole that threatens Oregon family farmers and landowners. Measure 81 is needed to close this loophole so that those of us who grow crops, raise livestock and responsibly manage the land won't be vulnerable to unfair and damaging lawsuits.

Agriculture is recognized as essential to the economic welfare of our state. Over the years, laws have been passed to make sure that we can continue to work our land in keeping with Oregon's land use policies. These laws protect us from "nuisance" or "trespass" claims that directly or indirectly attempt to limit standard farming practices.

These common sense protections are now at risk. Unless Measure 81 is passed, we face lawsuits and higher insurance rates that could cripple our ability to responsibly manage our land and, ultimately, force some of us out of business.

The lawyers' new loophole also could rob us of existing protections that allow us to open our land for public use and habitat improvements. Here are a few examples.

- Unless 81 passes, landowners who make their land available at no charge to the public for recreational and outdoor educational activities — such as hiking, fishing, hunting and camping — may no longer be protected from huge lawsuits.
- Unless 81 passes, landowners who voluntarily improve fish and wildlife habitats could be subject to huge lawsuits.

Working the land is a tough job; farmers and ranchers accept the challenge. What we won't accept is trial lawyers trying to line their own pockets at our expense and at the expense of all Oregonians who enjoy the outdoors.

Join us in protecting Oregon's farmers and landowners. Vote YES on Measure 81.

Oregon Farm Bureau

Oregon Wheat Growers League

Oregon Cattlemen's Association

Tillamook County Creamery Association

(This information furnished by C. Scott R. Gallant, Yes on 81 Committee, Inc.)

(This space purchased for \$500 in accordance with ORS 251.255.)

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Measure No. 81

ARGUMENT IN FAVOR

SMALL BUSINESS OWNERS SUPPORT YES ON MEASURE 81

Trial lawyers are at it again — trying to increase their profits at the expense of consumers and businesses. They've created a legal loophole that would give them a blank check to sue anyone, anytime, for any amount of money.

We need to pass Measure 81 to close this loophole. Here's why a YES vote on Measure 81 is important to small business and their customers.

Reasonable protections from civil lawsuits are now in place. That decreases business uncertainty. Small business owners — like those of us who run mom and pop stores, small retail shops and local restaurants — know that there is an upper limit to our liability and can price our goods and services accordingly. This is particularly important because small businesses must run on tight profit margins to stay competitive.

Yes on 81 keeps these reasonable protections. Unless existing laws are kept in place, consumer prices will include the price of business uncertainty stemming from the threat of excessive jury awards — such as the millions of dollars awarded to a person who spilled coffee on herself and blamed the restaurant for serving hot coffee.

Oregon small business owners urge you to vote YES on 81.

Oregon Neighborhood Store Association

National Federation of Independent Business (Oregon Chapter)

Oregon Restaurant Association

(This information furnished by C. Scott R. Gallant, Yes on 81 Committee, Inc.)

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Measure No. 81

ARGUMENT IN FAVOR

Rural Doctors Support YES on Measure 81

In rural communities throughout Oregon, medical care for some people can be more than 100 miles away. When a person calls a doctor, it's serious. Doctors, nurses and emergency medical personnel go wherever they're needed — in a field, on a back road or in a farmhouse. They roll up their sleeves and do their best to help. That's how it should be.

Lawyers' Loophole Threatens Rural Health Care Access

Fifteen years ago, skyrocketing premiums were forcing doctors to abandon their practices in rural communities. In many places, there were no obstetrical services for expectant mothers. The crisis was averted when Oregon passed reforms that helped doctors continue to practice in rural areas. Now, trial lawyers have found a loophole that would eliminate these reforms as well as existing laws that protect emergency medical personnel from being sued.

YES on Measure 81 Protects Doctors and "Good Samaritans"

Measure 81 will close the lawyers' loophole — and shut out the threat of reduced access to health care. A YES vote on Measure 81 will also reaffirm that Oregonians value the contributions made by "Good Samaritans" and will not allow trial lawyers to infringe on their good work.

YES on 81 Keeps Important Protections in Place

In an emergency, people look to medical professionals for help — right there and then. No "Good Samaritan" should have to consult a trial lawyer before lending a helping hand.

Please keep in place the important laws that respect the vital work done by the many Oregonians who provide needed emergency assistance in our rural communities and throughout our state.

Vote YES on Measure 81 to keep insurance costs down and health care available.

Oregon Rural Health Association

(This information furnished by C. Scott R. Gallant, Yes on 81 Committee, Inc.)

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Measure No. 81

ARGUMENT IN FAVOR

Trial Lawyers Are Waging An Assault On Affordable, Quality Health Care

Trial lawyers have created a legal loophole that will set back important strides our state has made in providing affordable, quality health care for Oregonians. This loophole could eliminate state laws that have helped hold down health care costs and improve access to quality health care in Oregon.

Measure 81 Will Save Important Reforms that Reduced Costs for Doctors and Patients

In the early 1980s, Oregon was in the midst of a medical insurance crisis that saw a nearly 40% increase in premiums by physicians and other health care providers. In response, the state adopted reforms that prompted a nearly 50% decrease in insurance premium rates.

These reforms have helped to keep health care costs from skyrocketing and allowed more doctors to continue practicing in rural areas, giving more people access to health care. Oregon's historical experience from the medical insurance crisis in the early 1980s clearly shows that physicians from all areas of the state were forced to discontinue offering important high risk medical services because they either could not afford or did not have access to adequate liability coverage.

Unless Measure 81 is Passed, Health Care Consumers Will Pay the Price

If the trial lawyers prevail in stripping away these sensible doctor and patient protections, consumers will ultimately pay the price of increased costs and decreased services. Unless Measure 81 is passed:

- **consumers** will be forced to pay higher health care costs and health insurance premiums;
- **employees** will face increased health insurance deductibles and co-payments;
- **employers** will be discouraged from offering health benefits to their employees; and
- **rural and low-income consumers** will experience reduced access to medical care.

Please join with health care professionals throughout Oregon in keeping quality health care affordable and available by voting YES on Measure 81.

Richard G. Kincade, M.D.
President
Oregon Medical Association

(This information furnished by C. Scott R. Gallant, Yes on 81 Committee, Inc.)

(This space purchased for \$500 in accordance with ORS 251.255.)

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Measure No. 81

ARGUMENT IN FAVOR

LEADING RETIRED JUDGE:

Measure 81 is needed to protect Oregonians from unlimited lawsuits

Oregon's civil justice system has been fair and balanced. Our 140-year old system ensures that individuals or businesses that cause damage are held responsible for their wrongdoing and the associated costs. The boundaries and protections applied in civil lawsuits stem from a fundamental tenet of democracy — the system of checks and balances among the judiciary, legislative and executive branches of government.

Last July, the Oregon Supreme Court ruled that, because of a provision in our state constitution, many Oregon laws that set limits on damages in civil lawsuits may be unconstitutional. This far-reaching decision in one case could undermine our legal system by virtually eliminating the role of the legislative and executive branches.

A YES vote on Measure 81 preserves such limits on lawsuits as are from time to time warranted.

Measure 81 will preserve fairness and balance in our civil justice system by reaffirming the legitimate and longstanding role of the executive and legislative branches in Oregon's civil justice system.

Vote YES on Measure 81.

Herbert Schwab
Retired Chief Judge, Oregon Court of Appeals

(This information furnished by C. Scott R. Gallant, Yes on 81 Committee, Inc.)

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Measure No. 81

ARGUMENT IN FAVOR

Measure 81 is essential to the good health of Oregon's community hospitals. Oregon Association of Hospitals and Health Systems urges you to Vote YES on Measure 81.

Fifteen years ago, insurance premiums skyrocketed, forcing doctors to abandon their practices in rural communities. **In many areas there were no obstetrical services** and pregnant women had to travel out of town to receive prenatal care and deliver their babies. When a person called a doctor, it was serious, and health-care could be as much as 100 miles away. **Fortunately, the 1987 legislature adopted a package of tort reform laws** that caused liability insurance premiums to decrease, **allowing physicians to continue to practice in Oregon's rural communities.**

Measure 81 closes a loophole cited by a recent court decision overturning the 1987 tort reforms. Without Measure 81, liability insurance will again increase for everyone – homeowners' and auto coverage, physicians and nurses donating their time to charitable groups, Good Samaritans who provide emergency medical assistance, food banks, and many other charitable organizations. One court has even decided that without Measure 81, public employees – including schoolteachers, county workers, and public hospital staff – can be sued in the performance of their official duties.

Voting YES on Measure 81 closes that loophole and preserves Oregon's ability to set reasonable limits on lawsuits, while acknowledging an individual's right to a jury trial. With Measure 81, a jury verdict could still award all actual monetary losses and establish a cap for noneconomic damages.

Measure 81 safeguards the rights of individuals **and allows healthcare providers to continue to practice in less populated rural areas.** Join us in Voting YES for Measure 81 – to preserve fairness and balance in our civil justice system.

Ken Rutledge, President
Oregon Association of Hospitals and Health Systems

(This information furnished by Ken Rutledge, Oregon Association of Hospitals & Health Systems.)

(This space purchased for \$500 in accordance with ORS 251.255.)

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Measure No. 81

ARGUMENT IN FAVOR

Lawyers' Loophole Puts Rodeos In Jeopardy

A new loophole found by trial lawyers threatens the future of Oregon's rodeos by eliminating legal protections for rodeo sponsors, volunteers and participants. This loophole could give trial lawyers free reign to file unlimited lawsuits seeking unlimited amounts of money. That would put our ability to continue holding rodeos in jeopardy.

Measure 81 Will Close the Loophole Before Trial Lawyers Can Tighten Their Noose Around Our Rodeos

A YES vote on Measure 81 will keep in place more than 80 existing state laws that protect non-profit groups, volunteers and many others who contribute their time and energy to community programs and events. These legal protections allow non-profit groups and people — like our rodeos and our event volunteers — to contribute to the community without the threat of unfair or frivolous lawsuits.

Existing Safeguards Must Be Kept In Place

Before our state put these needed reforms in place, rodeos faced skyrocketing insurance costs that could have forced us to close down. Fortunately, laws were passed that gave certain legal immunities to event sponsors. Our insurance costs became affordable, and our volunteers and rodeo participants no longer had to be concerned about unfair or frivolous lawsuits. Unless Measure 81 is passed, we could again face the possibility of having to cancel our rodeos.

Vote YES on Measure 81 to Let Our Rodeo Tradition Continue

Rodeos are part of the community fabric here in Oregon. Our events bring people of all ages together to celebrate our Western traditions. The success of rodeos in our state is due in large part to the efforts of volunteers and participants. *Together, we can keep the rodeo tradition alive by voting YES on Measure 81.*

YES on 81 will protect rodeos and all Oregon consumers from higher insurance rates.

Pendleton Round-Up Association

Chief Joseph Days Rodeo

St. Paul Rodeo Association

(This information furnished by C. Scott R. Gallant, Yes on 81 Committee, Inc.)

(This space purchased for \$500 in accordance with ORS 251.255.)

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Measure No. 81

Measure No. 81

ARGUMENT IN OPPOSITION

Oregon State Council of Senior Citizens Opposed
To Constitutional Amendment 81

Constitutional Amendment 81 takes away one of our most basic rights – the right to complete and impartial justice by jury. CA 81 attacks Oregon's justice system, the cornerstone of our constitution, by limiting the power of average citizens who act as the conscience of our community.

When you live long enough to be a senior citizen, you know people who have been victimized by:

- A scam artist,
- defective products that can injure,
- bullying landlords or abusive care givers,
- drunk drivers who hurt, maim and kill.

Unfortunately, seniors are often the targets of the unscrupulous and the victims of the reckless.

Alice Thomas was a piano teacher in Portland. Her HMO denied her surgery ordered by her doctor. As a result of not getting the surgery she lost the use of her right hand. She turned to the courts to recover her lost wages and medical expenses because of the negligence of her HMO that put profits before the health of its customers.

If the HMOs get their way, and CA 81 prevails, their political friends can put limits on any future recovery for people like Alice Thomas. HMOs would have even less incentive to place people ahead of profits.

Right now, the Oregon Civil Justice System is the ultimate decision-maker – twelve Oregon citizens, our neighbors and friends, rich and poor, seniors and non-seniors. We can hold wrongdoers fully accountable for their conduct, and force bad people to take responsibility for their behavior.

Constitutional Amendment 81 would change all that. And worse, it would let politicians, not juries, make decisions without ever hearing the facts. The HMOs want to amend the Oregon Constitution to take away the power of juries to hold wrongdoers personally responsible and fully accountable for their conduct.

Vote "No" on Constitutional Amendment 81 and tell the HMOs "no way."

(This information furnished by George Starr, Oregon State Council of Senior Citizens.)

ARGUMENT IN OPPOSITION

MADD Founder Opposes Constitutional Amendment 81

Mothers Against Drunk Driving (MADD) was founded on two simple but powerful principles: reducing the tragic results of drunk driving, and holding people accountable when they choose to behave in a dangerous and irresponsible manner.

Those two principles are important reasons to vote "NO" on Constitutional Amendment 81. This measure eliminates Oregonians' constitutional right to receive justice from a jury when they have been hurt, and hurts the victims of drunk drivers in particular.

A "NO" VOTE SAYS "NO" TO DRUNK DRIVERS

As founder of MADD, I know how important a strong civil justice system is to support our criminal justice system. It holds irresponsible people accountable for their actions. A "NO" vote on Constitutional Amendment 81 supports survivors and their families.

MADD does its best to advocate for survivors of drunk drivers. A big part of that is helping survivors through the civil justice system so they can recover from their injuries and regain their quality of life. Our civil justice system provides needed financial restitution for survivors of drunk driving crashes. Often drunk drivers and their insurance companies will settle without going to court. But when that doesn't happen, a jury is charged with ensuring justice is served.

LET JURIES HOLD DRUNK DRIVERS ACCOUNTABLE

Amending the Oregon Constitution to limit what a survivor may receive from a jury is irresponsible. Juries should decide the consequences for a drunk driver on a case-by-case basis. Politicians are ill prepared, without having heard the facts, to set limits on justice.

Oregonians must maintain their right to hold drunk drivers personally accountable.

Vote "NO" on Constitutional Amendment 81.

(This information furnished by Candace Lightner.)

(This space purchased for \$500 in accordance with ORS 251.255.)

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Measure No. 81

Measure No. 81

ARGUMENT IN OPPOSITION

**Retired Supreme Court Justice Betty Roberts
And
Retired Supreme Court Justice Berkeley Lent
Oppose Measure 81**

Our Constitution states, **"In all civil cases the right of Trial by Jury shall remain inviolate."**

When our nation was founded, the right to jury trial was considered fundamental to American liberty. The Bill of Rights guarantees that Congress cannot interfere with the common law right to jury trial. The Oregon legislature cannot interfere with that right. **That's not a loophole**, as the political backers of Measure 81 would have you believe...**it is your basic right.**

When Oregonians serve on juries, we decide disputes based on the specific facts of each case. In my experience on the Oregon Supreme Court, Oregon juries take their job seriously. Oregon juries act with fairness and common sense. **Measure 81 seeks to take power away from juries and give it to politicians;** that's a radical break from Oregon's heritage and tradition.

The Oregon Supreme Court won't be able to prevent the legislature from violating the right to jury trial if Measure 81 passes. This constitutional amendment would irresponsibly allow the legislature to interfere with the right to jury trial in any civil case, including those involving medical costs, lost wages, contracts, real property, civil rights, pollution, toxic chemicals, injuries, insurance, investments and pensions.

When someone owes a debt, Oregonians expect it to be paid in full. If a drunk driver hurts a loved one, the drunk should be held fully responsible, not protected by the legislature with some pre-set arbitrary limit. If a senior is defrauded out of her retirement, she should be entitled to get it all back, not just some pre-determined arbitrary fraction. This unfair proposed constitutional amendment would undermine Oregonian's long-standing traditions of justice and individual responsibility.

Who should we trust with justice: **independent Oregonians serving on juries, or politicians?** There is no need to change Oregon's Constitution in this manner.

Please vote "No" on Measure 81.

(This information furnished by Betty Roberts, Retired Supreme Court Justice.)

(This space purchased for \$500 in accordance with ORS 251.255.)

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ARGUMENT IN OPPOSITION

**Ralph Nader and The Oregon Consumer League
urge voters to reject this constitutional amendment.**

Don't think that Measure 81 is just about a few terribly injured victims. If you are an Oregon consumer, this measure affects you:

- It will endanger your constitutional right to jury trial in civil cases, a right fundamental to our democracy.
- It will allow irresponsible corporations off the hook for the full damage they cause, eliminating their financial incentive to remove dangerous products and practices from the marketplace.
- It will prevent Oregonians from obtaining just compensation for injuries caused by negligent or reckless corporations;

Measure 81 is a constitutional amendment that would break the first, most basic right guaranteed by the Oregon Constitution: **"In all civil cases the right of Trial by Jury shall remain inviolate."**

The jury system is the best way we know to secure fair and impartial justice. Only judges and juries hear the facts in a case and decide the outcome based on the evidence. Measure 81 would give that power to PAC-greased politicians, making it difficult or in some cases, impossible for civil judges and juries to adequately protect Oregonians. If this passes, defiant, reckless companies will not be held accountable for dangerous decisions that hurt the public, whether it's making cars with exploding gas tanks or garage doors without safety features to protect children, or it's an HMO withholding life-saving treatment.

Insurance companies will bluster and fulminate as usual, saying this constitutional amendment is needed to bring down rates. This is untrue. Studies show that greedy insurance companies will not reduce premiums upon enactment of such laws. Do not throw away your precious constitutional rights for a list of empty promises or worthless intimidation.

We urge you to vote "No" on this amendment to the Constitution.

**Ralph Nader
Jason Reynolds, Oregon Consumer League**

(This information furnished by Jason Reynolds, Executive Director, Oregon Consumer League.)

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Measure No. 81

Measure No. 81

ARGUMENT IN OPPOSITION

Survivor of side-saddle gas tank explosion speaks out against Measure 81

I was driving my car with my two grandchildren on Highway 97 in Eastern Oregon when a General Motors pickup truck pulled out in front of me. I couldn't avoid hitting the side of the truck, which exploded, filling my car with flaming gasoline. My granddaughter died, my grandson was hurt and I was badly burned. I spent over five months in the hospital. I am still recovering from burns and other injuries, including the loss of a leg and sight in one eye.

When I learned General Motors had knowingly designed this truck without any protection for the side-saddle gas tanks, I wanted to make a legal claim to recover the damages done to me and my family. At first we had the legislature blocking our path because of special interest legislation that protected GM from a lawsuit. With the help of many people, we overcame that obstacle. Eventually, with the help of the civil justice system, I won a settlement that has helped me and my family rebuild our lives.

It was the threat of a jury of my peers that finally brought justice to my case.

Now special interests are at it again. They are trying to change Oregon's Constitution to limit their responsibility for their actions. This means Oregonians risk losing a fundamental right to a trial by jury and Oregonians losing needed compensation for their injuries. This is about people's ability to pay for medical supplies and long term care, lost wages... and rebuilding their lives. I know because after my crash I had to rebuild my own.

Leave the decision to citizen jurors to decide cases based on the evidence. Vote "No" on this change to our Constitution.

Anne Kirkwood
Madras, Oregon

(This information furnished by Anne Kirkwood.)

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ARGUMENT IN OPPOSITION

JUROR SPEAKS OUT AGAINST 81

I was the foreman of the jury that last year ruled in favor of a Tigard woman who suffered terrible brain damage after a routine surgical procedure went awry. Our verdict against Providence St. Vincent Medical Center was one of the most difficult decisions any of us on the jury have ever had to make.

THE RIGHT TO TRIAL BY JURY IS NOT THE "LAWYER LOOP-HOLE" DESCRIBED BY MEASURE 81 PROPONENTS. Trial by jury is our most basic right and has been for hundreds of years.

MINOR SURGERY LEAVES PATIENT HELPLESS

We, the jury, ruled in favor of Denisa Christine Jennison, a 44-year-old woman who entered the hospital for a relatively routine surgery and left with such severe brain damage that she will require 24-hour care for the rest of her life.

HOLDING THE HOSPITAL RESPONSIBLE

It was not a slip of the scalpel that left Denisa so damaged. It was a slip of the system that should be in place to support the excellent professionals on the staff at St. Vincent. In Denisa's case, the system broke down. The blunders committed were atrocious and the result horrible. The business side of the hospital had expanded so quickly that the patient care system buckled under its own weight.

I stand by our verdict against St. Vincent.

As a juror, I was in awe of my responsibility to hear all the evidence in a month long trial and make a very difficult decision. We held the hospital accountable for its mistakes and sent a message to all large medical businesses to not forget us, the customers, the patients. **IF WE LOSE OUR RIGHT TO TRIAL BY JURY, WE WILL LOSE A POWERFUL TOOL TO HOLD OUT-OF-CONTROL BUSINESSES ACCOUNTABLE.**

Please join me in voting "No" on Constitutional Amendment 81. We need to cherish our most basic right.

Anne Hughes
citizen juror

(This information furnished by Anne Hughes.)

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Measure No. 81

Measure No. 81

ARGUMENT IN OPPOSITION

Congressman Peter DeFazio Opposes Radical Change to Oregon's Constitution

Every day Oregonians who have been seriously injured have to turn to the courts to get just compensation. Others must resort to the courts to settle serious business disputes, real property claims or for environmental actions. We take for granted our right to seek a trial by a jury of fellow citizens who can mete out justice and independently set economic damages.

CONSTITUTIONAL AMENDMENT 81 WILL DESTROY THAT TIME HONORED RIGHT!

Instead of the judgment of twelve fellow citizens we will be subject to the whim of the Oregon Legislature. Special interest lobbies and heavy hitter campaign contributors will determine when, whether or how much we might receive as compensation for damages done to us, our families, our property, small business or environment. As a legislator I can tell you the new system created in Salem won't be designed to protect average folks or their families. It will be designed to protect the bottom line profits of the largest corporations and the most powerful interests in our state against claims by our citizens no matter how just the cause.

There are many examples of large powerful companies that refused to change harmful and dangerous products until forced to do so by a jury of our peers. Dangerous products like exploding gas tanks, defective garage door openers that crushed children, and heavy machinery without backup alarms didn't get fixed by legislative action. It took the civil justice system to hold those irresponsible companies accountable, and to force them to make safer products.

Constitutional Amendment 81 asks you to strip the power and independence of our juries and end their ability to stop irresponsible companies. Constitutional Amendment 81 says, "TRUST THE POLITICIANS RATHER THAN A JURY OF OUR PEERS." I don't think I need to tell you what a mistake that would be.

(This information furnished by Peter DeFazio.)

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ARGUMENT IN OPPOSITION

The Brain Injury Association of Oregon opposes Measure 81.

The Brain Injury Association represents Oregonians who have suffered a traumatic brain injury and their families.

The backers of this Constitutional Amendment say its about controlling costs. But it is really about asking that you give away your constitutional right to a jury trial in exchange for vague promises of future cost reduction.

The lifetime cost of care for a survivor of a severe brain injury can range to \$4 million or more. This does not include lost earnings of the survivor or the value of the time and foregone earnings of family members who care for a person with brain injury. We should also consider the non-economic devastation which severe brain injury causes to the injured person and their family. Put yourself in the victim's place. If your life had been catastrophically changed by the action of an irresponsible company, how would you feel about a "one size fits all" cap on damages imposed by the Legislature? This is what this constitutional amendment would permit.

Too often, survivors of a brain injury need to recover damages through our civil justice system in order to pay for rehabilitation and long term care. All these people ask is that their case be judged on the evidence brought forward at the time of the trial, not pre-determined by politicians who set arbitrary limits based special interest lobbying.

The Brain Injury Association of Oregon believes judges and juries are much better equipped than the Legislature to render justice in a civil case.

Please vote "No" on Measure 81 and protect Oregon's Bill of Rights.

Note: "Prepared by Family Caregiver Alliance in cooperation with California's Resource Centers, a statewide system of resource centers serving families, caregivers of brain-impaired adults." Funded by the California Department of Mental Health. Revised and reprinted April 1996. © All rights reserved. The web page link: www.caregiver.org/factsheets/head_statsC.html

(This information furnished by Kristi Schaefer, RN and President of Brain Injury Support Group of Portland; F. William Olson, President, Carol Christoforo-Snider, Member, Brain Injury Association of Oregon.)

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Measure No. 81

Measure No. 81

ARGUMENT IN OPPOSITION

**Portland Gray Panthers say
"DON'T TAKE AWAY OUR CONSTITUTIONAL RIGHTS!"**

Generations of Americans have fought and died for our Constitutional rights. The right to a civil trial by jury protects the Constitutional rights of Oregonians. Now the politicians in Salem want to take power away from juries and give it to themselves. Don't let them.

Constitutional Amendment 81 overrules every guaranteed right in the Oregon Constitution. Our Constitutional rights and liberties mean something only if they can be enforced. Constitutional Amendment 81 is an extreme measure that guts the Oregon Bill of Rights and gives politicians unlimited power to limit enforcement of our rights.

Don't be fooled by the slick ad campaign being run by HMOs and the insurance industry. Your right to a trial by jury is not a loophole. Under this constitutional change, the politicians are given unlimited power to limit decisions by juries and judges in any civil case. The very first words of the constitutional amendment say: Notwithstanding any other provision of Oregon's Constitution, "Notwithstanding" means that no matter what any other provision of the Constitution says, the politicians can limit or block its enforcement by the civil justice system. Rights that cannot be enforced are no rights at all.

Thomas Jefferson wrote: "The wisdom of our sages and the blood of our heroes has been devoted to the attainment of trial by jury." Independent courts and juries enforcing our Constitutional rights is our birthright as Americans.

Oregon's seniors know the value of individual rights and the price that we've paid to protect those rights through this past century. That's why senior organizations such as the United Seniors of Oregon, Oregon State Council of Senior Citizens, and the Portland Gray Panthers are unanimous in their opposition to Constitutional Amendment 81.

Please vote NO on 81.

Please protect our Constitution.

Please protect the rights of Oregonians for the next century.

(This information furnished by Jim Davis, Portland Gray Panthers.)

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ARGUMENT IN OPPOSITION

**Alliance for Lung Cancer Urges Oregonians
To Oppose Constitutional Amendment 81**

The health of all Oregonians is our priority. It is absolutely critical that people who have been hurt have the ability to pay for their complete health care costs, or the burden falls on all taxpayers. The costs for health care can soar especially with diseases of the lung. Take for example exposure to asbestos, an illness that can require:

- Long term care givers
- Ramps into people's homes
- Modified vehicles that accommodate oxygen tanks

Constitutional Amendment 81 could take away the fundamental rights of an Oregonian to completely recover medical bills and lost wages. It allows politicians to place limits on all portions of the civil justice system. Guess who makes up the difference?

Constitutional Amendment 81 also allows the legislature to limit what a jury can assess against tobacco companies.

Don't believe proponents of Constitutional Amendment 81 when they say they'll set reasonable limits. These people tried to pass a bill last year in the legislature to limit recovery of damages against tobacco companies. Tell them we don't want that kind of irresponsible sell-out of our justice system in Oregon.

Our civil justice system is responsible for breaking the conspiracy of deception by tobacco companies about their product. Their cover-up of the addictive nature of nicotine and the truth about the dangers of smoking were exposed in jury trials.

Our courts are essential to holding negligent corporations responsible for their actions.

Recent years have seen a remarkable change in public awareness and attitudes toward the important issue of smoking and health.

Health advocacy groups have worked for decades to bring about changes in public awareness, social and legal policies, and to promote accountability.

Oregon has been a leader in protecting patient rights and promoting public health. **This constitutional amendment threatens those gains and leaves taxpayers holding the bill.**

(This information furnished by Nadine Jelsing, Alliance for Lung Cancer.)

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Measure No. 81

Measure No. 81

ARGUMENT IN OPPOSITION

Pick common sense over false promises of savings from insurance industry

Laws that restrict the rights of injured consumers to go to court do not produce lower insurance costs or rates, and insurance companies that claim they do are severely misleading the public.

The insurance industry claims that enactment of Measure 81 will cause insurance rates to stabilize and even fall. So the question is, have insurance rates dropped in states that have enacted "tort reforms?" Does enactment of "tort reform" lead to lower insurance rates?

The answer is unequivocally no, according to a major new report released by our organization last summer, **Premium Deceit -- the Failure of "Tort Reform" to Cut Insurance Prices**. It finds without question that laws that restrict injured consumers' rights to go to court have failed to cut insurance costs or rates.

The report found, "Despite years of claims by insurance companies that rates would go down following enactment of tort reform, we found that tort law limits enacted since the mid-1980s have not lowered insurance rates in the ensuing years. States with little or no tort law restrictions have experienced approximately the same changes in insurance rates as those states that have enacted severe restrictions on victims' rights."

In our history, there has probably never been anything like the current corporate assault on our civil jury system. Over the last 15 years, the nation's largest businesses have been advancing a legislative agenda to limit their liability for causing injuries. Now they are out to change Oregon's Constitution at the expense of your Bill of Rights.

Vote NO on Ballot Measure 81.

Joanne Doroshow, Executive Director, Citizens for Corporate Accountability & Individual Rights and co-author of Premium Deceit: The Failure of "Tort Reform" to Cut Insurance Prices.

(This information furnished by Joanne Doroshow, Citizens for Corporate Accountability & Individual Rights.)

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ARGUMENT IN OPPOSITION

Constitutional Amendment 81 Limits Patient Rights

As a physician, I oppose changes to our state Constitution that limit the rights of patients and the basic rights of all Oregonians.

This proposed change to our Constitution allows legislators to impose a drastic one-size-fits-all revision of our civil justice system. Advocates of Amendment 81 want to limit our basic rights, but haven't shown thoughtful deliberation of the facts nor offered a shred of evidence for its necessity. They have shown a knee jerk response to the Oregon Supreme Court.

As a supportive member of the Oregon Medical Association, it is not without risk for me to dissent from its endorsement of Constitutional Amendment 81. But I cannot conscientiously abandon social values under the threat of increased malpractice insurance premiums when there are so many other factors impacting insurance rates besides jury awards. In the current battle between social values and business values, it is ironic that physicians, who should be advocating social values, are asked to contribute money to a political campaign backed by big business pharmaceuticals, HMO bureaucracies, and insurance companies who haven't partnered with patients.

I'm a long serving member of the Grievance and Peer Review Committee of the Medical Society of Metropolitan Portland, a tireless member of the Clackamas County Medical Society Ad Hoc Committee for Ethical Reform, and a member of the OMA House of Delegates. I'm uneasy watching my OMA be misled and persist in its self-deception about Amendment 81. We risk alienating those we care most about - our patients. As patient advocates, we should question the ethics of a ballot measure limiting patients' constitutional rights.

For our own trustworthiness, the medical profession has sought treatment to keep the public trust it serves. Physicians are now asked whom do they trust: juries of our peers serving the Oregon Constitution or politicians in our legislature serving big business?

Constitutional Amendment 81 prescribes the wrong cure for a misdiagnosed problem.

Tom Sadoris, MD

(This information furnished by Dr. Thomas Sadoris, MD.)

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Measure No. 81

Measure No. 81

ARGUMENT IN OPPOSITION

This proposed constitutional amendment is a threat to Oregon's environment.

This measure would take your constitutional right as a juror to decide what is fair and just in a particular case, and give that power to the legislature. The legislature could limit or eliminate damages for any claim involving injury from exposure to toxic chemicals. Lawmakers could outlaw punitive damages, even where the polluter has been reckless and irresponsible. Sound ridiculous? Versions of those bills have come up before in the Oregon Legislature – and they've passed in other states.

When there has been environmental harm or injury, do we trust the politicians or a jury of Oregon citizens to decide what is right?

The court system and juries are an important way to encourage industries to be responsible for their actions. For example, industrial manufacturers will be more likely to find alternatives to the use of toxic chemicals if they expect that a jury will hold them fully responsible for the release of chemicals into the community's drinking water system. Sometimes the threat of damages does not deter wrongful conduct by chemical and oil industries and a jury may need to punish an irresponsible polluter by awarding punitive damages. The jury's ability to decide the appropriate amount of damages in a particular case is a large part of what makes the system work.

The industrial groups paying for this constitutional change include the chemical fertilizer companies, oil companies and the big business lobby.

On the other hand, groups who are concerned about the long-term health of the people and environment of Oregon such as:

- Oregon League of Conservation Voters
- Sierra Club
- NW Coalition for Alternatives to Pesticides
- and the Oregon Center for Environmental Health

OPPOSE MEASURE 81.

(This information furnished by Jane Haley, Oregon Center for Environmental Health.)

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ARGUMENT IN OPPOSITION

Justice requires that every case be heard before it is decided.

The Multnomah County and Clackamas County Democratic Central Committees urge you to protect your constitutional right to a civil trial by jury.

This amendment to our Constitution was rushed through the Oregon legislature in the closing days of session with little public notice or debate. It gives the legislature authority to set any limits on any damages in any civil action.

Consider opposing Measure 81:

By limiting damages, the legislature is destroying the ability of juries to administer fair, impartial justice based on the facts of each case. The politicians would decide -- without having heard the facts -- an arbitrary level of compensation for every situation.

Setting a fixed dollar amount a jury may award allows corporations to calculate the cost of doing business when manufacturing unsafe products. That's dangerous.

Consider Douglas Axen:

Take the case of Douglas Axen who was given heart medication that was known by the manufacturer to cause blindness. Because doctors were not informed about the risks associated with that drug, he was permanently blinded after using the medication. We need the courts to hold negligent companies responsible for their actions.

Don't protect pharmaceutical companies, HMOs and the insurance industry from their own wrong-doing.

Measure 81 would undermine the power of average citizens by allowing the legislature to limit any damages in any civil trial. Oregonians are threatened with losing one of our fundamental constitutional rights: the right to civil trial by jury.

Vote "No" on Measure 81.

(This information furnished by Tom Civillatti, Clackamas County Democratic Central Committee; Lawrence Taylor, Multnomah County Democratic Central Committee.)

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Measure No. 81

Measure No. 81

ARGUMENT IN OPPOSITION

Working families agree this amendment to our Constitution is dangerous.

Oregon working families have basic rights, currently protected by our state constitution, that ensure some basic level of fairness in the work place. Constitutional Amendment 81 takes away those basic rights and severely limits an individual's voice and workplace fairness. Here are just a few of the things at risk.

- Justice for on-the-job discrimination and/or harassment.
- Protection for employee whistle-blowing where employers are exposed for illegal or dangerous behavior.
- Ability to hold large corporations accountable for safe work environments.
- Power as consumers to stop corporations from producing faulty and unsafe products by forcing them to take responsibility when their products cause injury.

Sometimes, the courts are the only way to make a bad company pay for the harm it causes.

Families in Oregon have an absolute right to recover their medical bills and lost wages when hurt due to the negligence of another. This constitutional amendment erodes that right. Constitutional Amendment 81 would allow the Legislature to place any limit on any damages, including medical bills and lost wages.

It is too extreme and it is irresponsible.

Our trust in juries is well founded. They are critical to a democratic society and a voice for the people. Keep your trust in juries, not the politics of the capitol building in Salem.

Vote "No" on Constitutional Amendment 81.

(This information furnished by James Sager, Oregon Education Association; Rich Peppers, Oregon Public Employees Union, SEIU, Local 503; Madelyn Elder, Communications Workers of America Local 7901; Debbi Covert, President, American Federation of Teachers-Oregon, AFT-Oregon, AFT, AFL-CIO; Bob Shiprack, Oregon Building and Construction Trades Council; Tim Nesbitt, President, Oregon AFL-CIO; Ed Edwards, OSEA; Bob Livingston - Legislative Director, Oregon State Fire Fighters Council.)

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ARGUMENT IN OPPOSITION

Oregon Women Oppose Constitutional Amendment 81

We have all heard the stories about people who are injured, from children burned in flammable pajamas or crushed in a garage door with no safety switch, to the child who didn't get the needed care from an HMO.

Sometimes the civil justice system is the only way we have to get manufacturers to take hazardous products off the market, or force them to make unsafe products safe.

Sometimes the civil justice system is the only way to make corporations put the safety of consumers ahead of their bottom line.

Constitutional Amendment 81 says that a one size fits all cap set by the legislature is a way to administer justice, but we know that is wrong. We know Constitutional Amendment 81 isn't good for Oregon women.

A jury of ordinary citizens who have heard the facts should make the decision on a case-by-case basis, not the legislature in Salem. This is a basic Constitutional right that, if given up, will be very difficult to get back.

Why should women oppose Constitutional Amendment 81?

- Constitutional Amendment 81 allows the legislature to place a limit on all kinds of damages, including economic (like wages and medical costs) and punitive. It is irresponsible to assign a predetermined cap on damages without knowing the facts of an individual case.
- Damaging someone's health and well-being has long been viewed by proponents of limitations as injuries that are somehow not real. As a result, women, who have traditionally been associated with these injuries, often have their claims devalued.
- Capping damages also is unfair to children and the elderly who may not suffer huge economic losses, but may have their quality of life dramatically diminished.

Constitutional Amendment 81 is unfair, irresponsible and gives up our most basic constitutional right.

Join us in voting "no" on 81.

Governor Barbara Roberts
Congresswoman Elizabeth Furse

(This information furnished by Governor Barbara Roberts.)

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Measure No. 81

Measure No. 81

ARGUMENT IN OPPOSITION

PROSECUTORS AGAINST MEASURE 81

As elected District Attorneys it is our job to prosecute the guilty, protect the innocent, and to help victims and survivors of crime. While criminal convictions bring a measure of justice for victims, a strong civil justice system is necessary to hold criminals responsible.

Measure 81 would change Oregon's Constitution and make it harder for juries to administer a full measure of justice to criminals who hurt innocent citizens.

If a victim is injured by a drunk or drugged driver they can be criminally prosecuted. They might go to prison or jail or be ordered to pay some restitution for actual losses related to the crime. But only through the civil justice system can victims or their survivors seek justice to recover the true amount of their loss, including medical bills, lost pay or any economic measure of their loss.

To give you a vivid example of why victims need the civil courts to get full justice you need only look at cases involving sexual abuse of children. While a judge can order a convicted child molester to pay treatment costs for a victim, the only way to meaningfully compensate the victim is through the civil justice process. Some organizations that in the past just transferred suspected molesters rather than turn them in, are now far more vigilant because of the civil actions that held them responsible.

As prosecutors we stand to gain or lose nothing whether 81 passes or fails. Our opposition to this attempt to amend Oregon's Constitution is based on our commitment to victims of crime. Anything that would restrict a victim's right to recover reasonable damages for injuries done to them by a criminal is wrong.

We urge you to vote "No" on Measure 81.

Josh Marquis District Attorney Clatsop County	Michael D. Schrunk District Attorney Multnomah County
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Mike Dugan District Attorney Deschutes County	Edwin I. Caleb District Attorney Klamath County
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Chris Brauer
District Attorney
Umatilla County

(This information furnished by Joshua Marquis, Clatsop County District Attorney.)

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ARGUMENT IN OPPOSITION

COMMISSIONER SORENSON URGES

A "NO" VOTE ON MEASURE 81

Dear Oregon Voter,

My name is Peter Sorenson and I live in Eugene. I'm an elected Lane County Commissioner and former elected Oregon State Senator. When I was in the Legislature I was a member of the Senate Judiciary Committee. I have witnessed first hand the attacks on our system of justice, our independent judiciary and our right to trial by jury. I've been a juror and I've had to make the difficult case-by-case decisions that all jurors must make.

There are three reasons I want you to join me in VOTING NO ON MEASURE 81.

* **This measure attacks and diminishes our CONSTITUTIONAL RIGHTS TO A TRIAL BY JURY.**

* **This measure replaces case by case decisions by jurors with a "one size fits all" decision by the Legislature.**

* **This measure is an attempt by special interests to dominate our independent judiciary.**

For more information on this measure I want to personally invite you to contact me. I would be pleased to answer your questions or concerns. Please call me, Pete Sorenson, at 541-485-6726, email me at sorenson@efn.org, or write me at P.O. Box 10836, Eugene, Oregon 97440.

Thanks,

Peter Sorenson

P.S. This is the most recent of a long list of bad legislation favored by special interests. IT MUST BE DEFEATED.

(This information furnished by Peter Sorenson.)

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Measure No. 81

ARGUMENT IN OPPOSITION

**THE AMERICAN CIVIL LIBERTIES UNION OF OREGON
URGES YOU TO VOTE NO ON MEASURE 81!!**

- **Measure 81 is an attack on the Oregon Bill of Rights.** Measure 81 is so broadly written it would allow the Legislature to establish whatever limits it wants on damages in civil lawsuits—**even if those limits would otherwise violate the Oregon Bill of Rights or some other section of the Oregon Constitution.** Granting the Legislature such unbridled power jeopardizes the fundamental rights of all Oregonians.

- **Measure 81 upsets the balance of power between the legislative and judicial branches of our state government.** The drafters of the Oregon Constitution took care to develop three separate but equal branches of government (legislative, judicial and executive) with appropriate checks and balances on the powers of each branch. Measure 81 interferes with this balance of power by giving the Legislature the complete power to reduce, or even eliminate, available remedies for injuries done to Oregonians. Measure 81 goes too far by giving the Legislature the authority to override all other constitutional provisions as they apply to damages in civil lawsuits.

- **Measure 81 was hastily pushed through the Legislature with little deliberation and almost no opportunity for public testimony, debate or citizen participation.** Measure 81 was introduced in the closing days of the 1999 legislative session and was rushed through both houses. The result is a broad and poorly-crafted power grab by the Legislature away from Oregon judges and juries. This Measure will almost certainly have unintended and unexpected consequences. This is no way to amend the Constitution.

VOTE NO ON MEASURE 81!!

(This information furnished by David Fidanque, American Civil Liberties Union of Oregon.)

(This space purchased for \$500 in accordance with ORS 251.255.)

The printing of this argument does not constitute an endorsement by the State of Oregon, nor does the state warrant the accuracy or truth of any statement made in the argument.

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Proposed by referendum petition to be voted on at the Primary Election, May 16, 2000.

fuel in diesel engines. "Blending" does not mean the mixing that might occur in the process known as refining by the original refiner of crude petroleum. The commingling of products during transportation in a pipeline is not considered blending.

BALLOT TITLE

82 REPEALS TRUCK WEIGHT-MILE TAX; ESTABLISHES AND INCREASES FUEL TAXES

RESULT OF "YES" VOTE: "Yes" vote repeals truck weight-mile tax; establishes diesel tax; increases gas tax, registration fees.

(5) "Bulk storage" means the placing of diesel fuel into a receptacle other than the fuel tank of a motor vehicle.

(6) "Bulk transfer" means a transfer of diesel fuel by pipeline or vessel.

RESULT OF "NO" VOTE: "No" vote retains weight-mile highway tax on trucks; rejects increasing gas tax, registration fees.

(7) "Bulk transfer-terminal system" means the diesel fuel distribution system consisting of refineries, pipelines, vessels and terminals. Diesel fuel in a refinery, pipeline, vessel or terminal is in the bulk transfer-terminal system. Diesel fuel in the fuel tank of an engine or motor vehicle, or in a railcar, trailer, truck or other equipment suitable for ground transportation, is not in the bulk transfer-terminal system.

(8) "Department" means the Department of Transportation.

SUMMARY: Currently, motor carriers pay highway tax based on truck weight, miles driven. Measure repeals weight-mile tax. Establishes diesel fuel tax (29 cents per gallon). Increases gasoline tax by five cents to diesel tax rate. Raises vehicle registration fees. Additional revenue to be used primarily for road and bridge modernization, maintenance, and preservation. Requires licenses for diesel fuel suppliers, distributors, others. Requires recordkeeping, monthly tax reports by licensees. Authorizes transportation department to enforce requirements. Provides remedies for violations, including fines, penalties, criminal sanctions. Other provisions.

(9) "Diesel fuel" means any liquid that is commonly or commercially known, offered for sale or used as fuel in a diesel engine.

ESTIMATE OF FINANCIAL IMPACT: This measure would increase gas tax revenues and expenditures an average of \$140 million per year over five years. Of that increase, \$39 million per year is allocated to counties, \$22.5 million per year to cities, and \$78.5 million per year to the state.

(10) "Direct delivery" means removal of accountable diesel fuel from a bulk storage facility to another destination by any mode of transportation in which the fuel reaches the destination without interim storage.

(11) "Director" means the Director of Transportation.

The measure also authorizes the sale of \$600 million in bonds. Debt repayment, including interest, on those bonds is estimated to be \$47 million per year for 15 years. The debt repayment, including interest, is included in the \$78.5 million estimate of state expenditure stated above.

(12) "Distributor" means a person who acquires accountable diesel fuel from a supplier, distributor or licensee for subsequent sale and distribution.

(13) "Dyed diesel fuel user" means a person authorized under the Internal Revenue Code to operate a motor vehicle on the highway using diesel fuel that has been dyed in accordance with Internal Revenue Service requirements, in which the use is not exempt from the diesel fuel tax imposed under section 2 of this 1999 Act.

(14) "Evade" or "evasion" means to diminish or avoid the computation, assessment or payment of authorized taxes or fees through:

TEXT OF MEASURE

Relating to taxation; creating new provisions; amending ORS 305.850, 319.020, 319.520, 319.530, 319.690, 366.507, 366.508, 366.524, 366.541, 366.542, 366.790, 367.605, 367.620, 367.625, 376.390, 802.010, 802.130, 802.500, 802.520, 803.420, 803.645, 810.530, 818.225, 818.270, 825.005, 825.007, 825.020, 825.022, 825.137, 825.139, 825.232, 825.354, 825.450, 825.476, 825.480, 825.500, 825.504, 825.515, 825.517, 826.005, 826.007 and 826.031 and section 2, chapter _____, Oregon Laws 1999 (Enrolled House Bill 2635); repealing ORS 803.108, 825.212, 825.470, 825.472, 825.474, 825.476, 825.480, 825.482, 825.484, 825.486, 825.488, 825.490, 825.492, 825.494, 825.496, 825.502, 825.506, 825.507 and 825.550; and providing for revenue raising that requires approval by a three-fifths majority.

(a) An intentional false statement, misrepresentation of fact or other act of deception; or

(b) An intentional omission, failure to file a return or report, or other act of deception.

(15) "Export" means to deliver accountable diesel fuel to an out of state destination. Delivery of accountable diesel fuel out of state by or on behalf of a seller constitutes exporting by the seller. Delivery of accountable diesel fuel out of state by or on behalf of a purchaser constitutes exporting by the purchaser.

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

SECTION 1. As used in sections 1 to 41 of this 1999 Act:

(1) "Accountable diesel fuel" means diesel fuel that is subject to the reporting requirements of sections 1 to 41 of this 1999 Act.

(2) "Blended diesel fuel" means accountable diesel fuel produced by blending that can be used to propel a diesel-engine motor vehicle.

(3) "Blender" means a person who engages in the process of blending.

(4) "Blending" means the mixing together of products that results in a product that is suitable or practical for use as a

(16) "Exporter" means a person who exports accountable diesel fuel. If the exporter of record is acting as an agent, the person for whom the agent acts is the exporter. If there is no exporter of record, the person who owns the fuel at the time of export is the exporter.

(17) "Import" means to deliver accountable diesel fuel into this state. Delivery of accountable diesel fuel into this state by or on behalf of a seller constitutes importing by the seller. Delivery of accountable diesel fuel into this state by or on behalf of a purchaser constitutes importing by the purchaser.

(18) "Importer" means a person who imports accountable diesel fuel. If the importer of record is acting as an agent, the person for whom the agent acts is the importer. If there is no importer of record, the person who owns the fuel at the time of import is the importer.

(19) "International fuel tax agreement licensee" means a diesel fuel user operating qualified motor vehicles in interstate commerce and licensed by the department under an international fuel tax agreement described in ORS 825.555.

(20) "Lessor" means a person:

(a) Whose principal business is the bona fide leasing or renting to the general public of motor vehicles, without drivers, for compensation; and

(b) Who maintains established places of business and whose lease and rental contracts require the motor vehicles

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to be returned to the established places of business.

(21) "Licensee" means a person holding a license issued under section 15 of this 1999 Act.

(22) "Motor vehicle" means a self-propelled vehicle, designed for operation upon land, that utilizes diesel fuel as the means of propulsion.

(23) "Person" means an individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, limited liability company, receiver, trustee, guardian or any other representative appointed by a court. "Person" also means a city, county or other political subdivision of the state. When applied to a partnership or association, "person" includes the partners or members of the partnership or association, in addition to the partnership or association itself. When applied to a limited liability company or a corporation, "person" includes the officers, agents or employees of the company or corporation in addition to the company or corporation itself.

(24) "Pipeline" means a fuel distribution system that moves fuel, in bulk, through a pipe, either from a refinery to a terminal or from a terminal to another terminal.

(25) "Position holder" means a person who holds the inventory position in diesel fuel, as reflected by the records of the terminal operator. A person holds the inventory position in diesel fuel if the person has a contractual agreement with the terminal operator for the use of bulk storage facilities and for services at a terminal with respect to diesel fuel. "Position holder" includes a terminal operator who owns diesel fuel in the operator's terminal.

(26) "Rack" means a mechanism for delivering diesel fuel from a refinery or terminal into a truck, trailer, railcar or other means of nonbulk transfer.

(27) "Refiner" means a person who owns, operates or otherwise controls a refinery.

(28) "Refinery" means a facility used to process crude oil, unfinished oil or other hydrocarbons into accountable diesel fuel.

(29) "Removal" means a physical transfer of diesel fuel other than by evaporation, loss or destruction.

(30) "Sale" means, in addition to its ordinary meaning, any exchange, gift or other disposition of accountable diesel fuel.

(31) "Supplier" means a person who owns and stores diesel fuel in a terminal facility or who refines and stores diesel fuel at a refinery.

(32) "Terminal" means a diesel fuel storage and distribution facility that has been assigned a terminal control number by the Internal Revenue Service, is supplied by pipeline or vessel, and from which accountable diesel fuel is removed at a rack.

(33) "Terminal operator" means a person who owns, operates or otherwise controls a terminal.

(34) "Two-party exchange" or "buy-sell agreement" means a transaction in which taxable diesel fuel is transferred from one licensed supplier to another licensed supplier, pursuant to an exchange agreement whereby the supplier that is the position holder agrees to deliver taxable diesel fuel to the other supplier or the other supplier's customer at the rack of the terminal where the delivering supplier is the position holder.

(35) "User" means a person who uses diesel fuel.

SECTION 2. (1) There is levied and imposed upon diesel fuel a tax at the rate of 29 cents on each gallon of diesel fuel.

(2) The tax imposed by subsection (1) of this section is imposed when:

(a) Diesel fuel is removed from a terminal in this state if the diesel fuel is removed at the rack, unless the removal is to a licensed exporter for direct delivery to a destination outside this state;

(b) Diesel fuel is removed from a refinery in this state if either of the following applies:

(A) The removal is by bulk transfer and the refiner or the owner of the diesel fuel immediately before the removal is not a licensee; or

(B) The removal is at the refinery rack unless the removal is to a licensed exporter for direct delivery to a destination outside this state;

(c) Diesel fuel enters into this state for sale, consumption, use or storage if either of the following applies:

(A) The entry is by bulk transfer and the importer is not a licensee; or

(B) The entry is not by bulk transfer;

(d) Diesel fuel is removed in this state to an unlicensed entity unless there was a prior taxable removal, entry or sale of the diesel fuel;

(e) Blended diesel fuel is removed or sold in this state by the blender of the fuel. The number of gallons of blended diesel fuel subject to tax is the difference between the total number of gallons of blended diesel fuel removed or sold and the number of gallons of previously taxed diesel fuel used to produce the blended diesel fuel; or

(f) Dyed diesel fuel is used on a highway, as authorized by the Internal Revenue Code, unless the use is exempt from the diesel fuel tax.

(3) The tax imposed by this section, if required to be collected by a licensee, is held in trust by the licensee until paid to the Department of Transportation. A person who fails to collect the tax imposed by this section, or who has collected the tax and fails to pay it to the department in the manner prescribed under sections 1 to 41 of this 1999 Act, is personally liable to the state for the amount of the tax.

SECTION 3. The tax imposed under section 2 of this 1999 Act, if not previously imposed and paid, must be paid to the Department of Transportation by diesel fuel users and persons licensed under an international fuel tax agreement or other fuel tax reciprocity agreements entered into with the State of Oregon on the use of diesel fuel to operate motor vehicles on the highways of this state, unless the use is exempt from the tax under sections 1 to 41 of this 1999 Act.

SECTION 4. (1) A position holder shall remit tax to the Department of Transportation on diesel fuel removed from a terminal as provided in section 2 of this 1999 Act. On a two-party exchange or buy-sell agreement between two suppliers, the receiving exchange partner or buyer becomes the position holder who shall remit the tax.

(2) A refiner shall remit tax to the department on diesel fuel removed from a refinery as provided in section 2 of this 1999 Act.

(3) An importer shall remit tax to the department on diesel fuel imported into this state as provided in section 2 of this 1999 Act.

(4) A blender shall remit tax to the department on the removal or sale of blended diesel fuel as provided in section 2 of this 1999 Act.

(5) A dyed diesel fuel user shall remit tax to the department on the use of dyed diesel fuel as provided in section 2 of this 1999 Act.

SECTION 5. A terminal operator is jointly and severally liable for remitting the tax imposed under section 2 of this 1999 Act if, at the time of removal:

(1) The terminal operator is not a licensee;

(2) The position holder is a person other than the terminal operator and is not a licensee;

(3) The position holder has an expired Internal Revenue Service notification certificate issued under 26 C.F.R. part 48; or

(4) The terminal operator had reason to believe that information on the notification certificate was false.

SECTION 6. A terminal operator is jointly and severally liable for remitting the tax imposed under section 2 of this 1999 Act if, in connection with the removal of diesel fuel that is not dyed in accordance with Internal Revenue Service requirements, the terminal operator provides a person with a bill of lading, shipping paper or similar document indicating that the diesel fuel is dyed in accordance with Internal Revenue Service requirements.

SECTION 7. (1) A person may not operate or maintain a

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motor vehicle on a public highway of this state with dyed diesel fuel in the fuel tank unless the use is authorized under the Internal Revenue Code and the person holds a valid dyed diesel fuel user license issued to the person by the Department of Transportation. The diesel fuel tax set forth in section 2 of this 1999 Act is imposed on users of dyed diesel fuel authorized under the Internal Revenue Code to operate motor vehicles on the highway using dyed diesel fuel, unless the use is exempt from the diesel fuel tax.

(2) Unless such use is expressly authorized under the Internal Revenue Code or sections 1 to 41 of this 1999 Act, a person who uses dyed diesel fuel in operating a motor vehicle on the public highways of this state is subject to a civil penalty of \$10 for each gallon of dyed diesel fuel placed into the fuel tank of the motor vehicle, or \$1,000, whichever is greater. The civil penalty shall be imposed in the manner provided by ORS 183.090 and shall be deposited in the State Highway Fund.

(3) For the purposes of enforcement of this section, members of the Oregon State Police, motor carrier enforcement officers and weighmasters may inspect, collect, analyze and secure samples of diesel fuel used in the operation of a motor vehicle on the public highways of this state to detect the presence of dye or other chemical compounds.

(4) The Department of Transportation shall, by July 1, 2000, develop and implement procedures for inspection, collection, analysis and storage of diesel fuel samples collected under subsection (3) of this section.

SECTION 8. (1) Diesel fuel that is dyed satisfies the dyeing requirements of sections 1 to 41 of this 1999 Act if it meets the dyeing requirements of the Internal Revenue Service, including but not limited to requirements of type, dosage and timing.

(2) Notice is required with respect to use of dyed diesel fuel. The notice requirement of this subsection is satisfied if the notice meets notice requirements of regulations published by the Internal Revenue Service.

SECTION 9. A diesel fuel supplier is entitled to a credit of the tax paid to the Department of Transportation on sales of diesel fuel for which the supplier received less than full consideration from or on behalf of the purchaser. The amount of consideration received shall be apportioned between the charges for the fuel and the tax for the fuel. The amount of the tax credit shall not exceed the amount of tax imposed under section 2 of this 1999 Act on such sales. If the supplier has taken a credit under this section, any amounts collected for application against the accounts on which the credit is based shall be apportioned between the charges for the fuel and the corresponding tax for the fuel and shall be reported on a subsequent return filed after such collection, and the amount of credit received by the supplier based upon the collected amount shall be returned to the department. If the credit has not been taken, the amount of the credit due to the supplier shall be adjusted by the department to reflect the decrease in the amount on which the claim is based.

SECTION 10. A diesel fuel distributor, diesel fuel importer or diesel fuel blender, under rules adopted by the Department of Transportation, is entitled to a refund of the tax paid on the sales of diesel fuel for which less than full consideration has been received from or on behalf of the purchaser and that have been declared to be worthless accounts receivable. The amount of consideration received shall be apportioned between the charges for the fuel and the tax for the fuel. The amount of the tax refunded must not exceed the amount of tax paid under sections 1 to 41 of this 1999 Act by the distributor, importer or blender. If the distributor, importer or blender subsequently collects any amount for the account declared worthless, the amount collected shall be apportioned between the charges for the fuel and the corresponding tax for the fuel. The diesel fuel tax collected must be returned to the department.

SECTION 11. (1) Unless a person holds a valid license issued by the Department of Transportation, the person may

not engage in this state in the business of:

- (a) Diesel fuel supplier;
- (b) Diesel fuel distributor;
- (c) Diesel fuel exporter;
- (d) Diesel fuel importer;
- (e) Diesel fuel blender;
- (f) Dyed diesel fuel user; or
- (g) International fuel tax agreement licensee.

(2) A person engaged in more than one kind of activity described in subsection (1) of this section for which a license is required must have a separate license for each activity, but a diesel fuel supplier is not required to obtain a separate license for any other activity for which a license is required.

(3) Diesel fuel users operating motor vehicles that have a combined weight of 26,000 pounds or less are not required to be licensed. Diesel fuel users operating motor vehicles in interstate commerce that have two axles and a combined weight exceeding 26,000 pounds, or that have three or more axles regardless of weight, and diesel fuel users operating a combination of vehicles that has a combined weight exceeding 26,000 pounds, must comply with the licensing and reporting requirements of sections 1 to 41 of this 1999 Act. A copy of the license must be carried in each motor vehicle entering this state. As used in this subsection, "combined weight" has the meaning given in ORS 825.005.

SECTION 12. (1) An out-of-state diesel fuel user who is not registered under the International Fuel Tax Agreement and who operates a motor vehicle in this state for commercial purposes shall apply to the Department of Transportation for a trip permit that shall be valid for a period of three consecutive days beginning and ending on the dates specified on the face of the issued permit. The permit is valid only for the motor vehicle for which it is issued and when the permit fee has been paid.

(2) Every trip permit shall identify the motor vehicle for which it is issued, be completed in its entirety and be signed and dated by the operator of the motor vehicle before operation of the motor vehicle on the public highways of this state. Alteration or correction of data on the permit such as dates, vehicle license number or vehicle identification number invalidates the permit.

(3) For each trip permit issued, the department shall collect a filing fee of \$1, an administrative fee of \$10 and an excise tax of \$15. The fees and tax shall be in lieu of the diesel fuel tax otherwise assessable against the permit holder for importing and using diesel fuel in a motor vehicle on the public highways of this state and no report of mileage shall be required for that motor vehicle. The department may not issue a permit if:

- (a) The applicant has outstanding fuel taxes, penalties or interest owing to this state;
- (b) The applicant has had a diesel fuel license revoked for cause and the cause has not been removed; or
- (c) The applicant is a licensee under an international fuel tax agreement authorized by ORS 825.555.

(4) Blank trip permits may be obtained from the department or agents appointed by the department. Agents appointed by the department may retain the filing fee collected for each trip permit to defray expenses incurred in handling and selling the permits.

(5) Fees and excise taxes collected by the department for trip permits shall be credited and deposited in the same manner as the diesel fuel taxes collected under sections 1 to 41 of this 1999 Act and shall not be subject to exchange, refund or credit.

(6) Notwithstanding subsection (3) of this section, the department may by rule set the filing fee for trip permits that are sold by agents.

SECTION 13. (1) An applicant for a license issued under section 15 of this 1999 Act shall apply to the Department of Transportation on a form prepared and furnished by the department. The form shall contain any information that the department deems necessary.

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(2) Every application for a diesel fuel license, other than an application for a dyed diesel fuel user license or international fuel tax agreement license, must contain the following information to the extent it applies to the applicant:

(a) Satisfactory proof of the applicant's identity, including but not limited to either:

(A) Proof of registration with the Internal Revenue Service under the provisions of section 4101 of the Internal Revenue Code; or

(B) The applicant's fingerprints or those of the officers, directors, partners or other principals in the business entity making the application;

(b) The applicant's form and place of business, including proof that the individual or business entity is licensed to do business in this state;

(c) The qualifications and business history of the applicant and any officer, director, partner or other principal thereof;

(d) The applicant's financial condition or history, including a bank reference and whether the applicant or any officer, director, partner or principal has ever been declared bankrupt or has an unsatisfied judgment in a federal or state court; and

(e) Whether the applicant or any officer, director, partner or other principal has, within the preceding 10 years, been found guilty of a crime that directly relates to the business for which the license is sought or, within the preceding five years, has suffered a judgment in a civil action involving fraud, misrepresentation, conversion or dishonesty.

(3) An applicant for a license as a diesel fuel importer must list on the application each state, province or country from which the applicant intends to import fuel and, if required by the state, province or country listed, must be licensed or registered for diesel fuel tax purposes in that state, province or country.

(4) An applicant for a license as a diesel fuel exporter must list on the application each state, province or country to which the exporter intends to export diesel fuel received in this state by means of a transfer outside the bulk transfer-terminal system and, if required by the state, province or country listed, must be licensed or registered for diesel fuel tax purposes in that state, province or country.

(5) An applicant for a license as a diesel fuel supplier must have a certificate of registry that is issued under the Internal Revenue Code and authorizes the applicant to enter into federal tax-free transactions on diesel fuel in the bulk transfer-terminal system.

(6) An application for a dyed diesel fuel user license must be made to the department. The application must be filed on a form prepared and furnished by the department and contain any information that the department deems necessary.

(7) An application for an international fuel tax agreement license must be made to the department in the manner provided in an international fuel tax agreement entered into under ORS 825.555, or as provided by rule by the department.

(8) After receipt of an application for a license, the Director of Transportation may conduct an investigation to determine whether the facts set forth in the application are true. The director may also request criminal offender information from the Department of State Police in the manner required by section 79 of this 1999 Act. The results of the background investigation, including criminal offender information, may be released to authorized department personnel as the director deems necessary. The Department of Transportation shall charge a license applicant or license holder a fee of \$50 for each background investigation conducted.

SECTION 14. (1) Except as otherwise provided in subsection (6) of this section, a diesel fuel license may not be issued to any person or continued in force unless the person has furnished a bond or an irrevocable letter of credit, in a form that the Department of Transportation may require, to secure the person's compliance with the provisions of sections 1 to 41 of this 1999 Act and the payment of any and all taxes,

interest and penalties owed by the person. The requirement of furnishing a bond or letter of credit may be waived for diesel fuel distributors who deliver diesel fuel only into the fuel tanks of marine vessels, for dyed diesel fuel users and for persons issued a license under an international fuel tax agreement.

(2) The total amount of the bond or letter of credit required of any licensee shall be fixed by the department and may be increased or reduced by the department at any time subject to the limitations provided in this section. The total amount of the bond or letter of credit required of any licensee shall be equivalent to twice the estimated monthly license tax, determined in the manner the department deems proper. However, except as provided in subsection (3) of this section, the total amount of the bond or letter of credit required of any licensee may never be less than \$1,000 nor more than \$100,000.

(3) The total amount of the bond or letter of credit required of persons described in this subsection shall never be less than \$1,000 nor more than \$250,000. This subsection applies to the following:

(a) A person who first applies for a license.

(b) A person who has not faithfully performed, as determined by the department, for the last three years, the requirements of sections 1 to 41 of this 1999 Act, as required by subsection (1) of this section. If the department determines that the person has not faithfully performed the requirements, and that the lack of faithful performance was due to reasonable cause and was without any intent to avoid payment, the department may waive the additional bond or letter of credit requirement imposed under this subsection.

(4) Any bond or letter of credit given in connection with sections 1 to 41 of this 1999 Act shall be a continuing instrument and shall cover any and all periods of time including the first and all subsequent periods for which a license may be granted in consequence of the giving of the bond or letter of credit. The liability of the surety on the bond or letter of credit for the aggregate of all claims that arise thereunder shall not exceed the amount of the penalty of the bond or letter of credit. No recoveries on any bond or letter of credit and no execution of any new bond or letter of credit shall invalidate any bond or letter of credit, but the total recoveries on any one bond or letter of credit shall not exceed the amount of the bond or letter of credit.

(5) A licensee required under this section to obtain a bond or letter of credit may demand by proper petition a hearing on the necessity of such bond or letter of credit or the reasonableness of the amount required. A hearing shall be granted and held within 10 days after the demand therefor. The decision of the department shall become final 10 days after service of the order on the licensee.

(6) In lieu of the bond or letter of credit required by this section, a person may deposit with the State Treasurer, under such terms and conditions as the Department of Transportation may prescribe, a like amount of lawful money of the United States or bonds or other obligations of the United States, the State of Oregon or any county of this state, of an actual market value not less than the amount so fixed by the department.

SECTION 15. (1) Upon receipt and approval of an application and a bond or other security, if required, the Department of Transportation shall issue a license to the applicant. However, the department may refuse to issue a license to any person:

(a) Who formerly held a license issued under this section or ORS 319.510 to 319.880 that, prior to the time of filing the application, was revoked for cause;

(b) Who has submitted an application as a subterfuge for the real party in interest whose license, prior to the time of filing the application, was revoked for cause;

(c) Who has had a diesel fuel license revoked for cause;

(d) Who has an unsatisfied debt to the state assessed under sections 1 to 41 of this 1999 Act;

(e) Who formerly held a license issued by the federal

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government or by this or any other state that allowed the person to buy or sell untaxed motor vehicle or diesel fuel, and the license was revoked for cause;

(f) Who has pled guilty to or was convicted in this or any other state, or in any federal jurisdiction, of a felony crime directly related to the applicant's business, or who has been subject to a civil judgment involving fraud, misrepresentation, conversion or dishonesty;

(g) Who has misrepresented or concealed a material fact in obtaining or renewing a license;

(h) Who has violated a statute or administrative rule regulating fuel taxation or distribution;

(i) Who has failed to cooperate with the department's investigations by:

(A) Not furnishing papers or documents;

(B) Not furnishing in writing a full and complete explanation regarding a matter under investigation by the department; or

(C) Not responding to a subpoena issued by the department, whether or not the recipient of the subpoena is the subject of the proceeding;

(j) Who has failed to comply with an order issued by the Director of Transportation; or

(k) Upon other sufficient cause being shown.

(2) Before refusing to issue a license, the department shall grant the applicant a hearing and shall give the applicant at least 20 days' written notice of the time and place of the hearing.

(3) The department shall determine, from the information shown in the application or other investigation, the type and class of license to be issued. For the purpose of considering any application for a diesel fuel license, the department may inspect, cause an inspection, investigate or cause an investigation of the records of this or any other state or of the federal government to determine the truthfulness of the information on the application form.

(4) All licenses shall be posted in a conspicuous place or kept available for inspection at the principal place of business of the licensee. Licensees shall reproduce the license by photostatic or other method and keep a copy on display for ready inspection at each additional place of business or other place of storage from which diesel fuel is sold, delivered or used and in each motor vehicle used by the licensee to transport diesel fuel purchased by the licensee for resale, delivery or use.

(5) Each diesel fuel license shall be valid until suspended or revoked for cause or until otherwise canceled.

(6) A diesel fuel license is not transferable.

SECTION 16. (1) The Department of Transportation may revoke the license of any licensee for any of the grounds constituting cause for refusal of a license set forth in section 15 of this 1999 Act or for other reasonable cause. Before revoking a license, the department shall issue a notice to the licensee directing the licensee to show cause within 10 days of the date of the notice as to why the license should not be revoked. At any time prior to and pending a hearing, the department may, in the exercise of reasonable discretion, suspend the license.

(2) The department may, upon written request of a licensee or upon surrender of the license by the licensee, cancel any diesel fuel license. The cancellation shall take effect 30 days after receipt of the written request or surrender of the license.

(3) Any surety on a bond, irrevocable letter of credit or other security furnished by the licensee as provided in section 14 of this 1999 Act shall be released and discharged from any and all liability to the state that accrues on the bond, letter of credit or other security after 30 days from the date the surety lodges with the department a written request to be released and discharged. This provision does not relieve, release or discharge the surety from any liability already accrued or that accrues before the expiration of the 30-day period. The department shall, upon receiving the

request, promptly notify the licensee who furnished the bond, letter of credit or other security and, unless the licensee files a new bond, irrevocable letter of credit or other security on or before the expiration of the 30-day period in accordance with this section, shall immediately cancel the license.

(4) The department may require a new or additional bond, irrevocable letter of credit or other security if, in its opinion, the security furnished by the licensee under section 14 of this 1999 Act becomes impaired or inadequate. Upon failure of the licensee to furnish a new or additional bond, letter of credit or other security within 10 days after being requested to do so by the department, or if the licensee fails or refuses to file reports and remit or pay taxes at the intervals fixed by the department, the department shall cancel the license.

SECTION 17. A diesel fuel licensee who has a change of ownership shall immediately notify the Department of Transportation of the change. Upon notification, the department shall immediately cancel the license of the licensee. No license may be issued to any successor of the licensee until the successor completes an application and furnishes an adequate bond, irrevocable letter of credit or other security to the department. For purposes of this section:

(1) In the case of a corporation with more than 100 stockholders, transfer of stock in normal trading is not considered a change in ownership.

(2) In the case of a corporation with 100 or fewer stockholders, transfer of less than 50 percent of the stock in any period of 12 consecutive months is not considered a change in ownership.

SECTION 18. (1) Every licensee and every other person importing, manufacturing, refining, dealing in, transporting, blending or storing diesel fuel in this state shall keep a complete record of all diesel fuel purchased or received and all diesel fuel sold, delivered or used by the person. Records shall be kept for a period of not less than five years and shall be open to inspection by the Department of Transportation or its authorized representatives during regular business hours. Those records shall show:

(a) The date of each receipt of diesel fuel;

(b) The name and address of the person from whom the diesel fuel was purchased or received;

(c) The number of gallons received at each place of business or place of storage in the State of Oregon;

(d) The date of each sale or delivery;

(e) The number of gallons sold, delivered or used for taxable purposes;

(f) The number of gallons sold, delivered or used for any purpose not subject to the tax imposed under section 2 of this 1999 Act;

(g) The name, address and diesel fuel license number of the purchaser if the diesel fuel tax is not collected on the sale or delivery; and

(h) The inventories of diesel fuel on hand at each place of business at the end of each month.

(2)(a) All international fuel tax agreement licensees and dyed diesel fuel users authorized to use dyed diesel fuel on the public highways of this state in vehicles licensed for highway operation shall maintain detailed mileage records on an individual vehicle basis. The mileage records shall show both on-highway and off-highway usage of diesel fuel on a daily basis for each vehicle.

(b) In the absence of operating records that show both on-highway and off-highway usage of diesel fuel on a daily basis for each vehicle, fuel consumption shall be calculated at the rate of one gallon for every:

(A) Four miles traveled by a vehicle with a combined weight of over 40,000 pounds;

(B) Seven miles traveled by a vehicle with a combined weight of 12,001 to 40,000 pounds;

(C) Ten miles traveled by a vehicle with a combined weight of 6,001 to 12,000 pounds; and

(D) Sixteen miles traveled by a vehicle with a combined

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weight of 6,000 pounds or less.

(c) As used in paragraph (b) of this subsection, "combined weight" has the meaning given in ORS 825.005.

(3) The department may require a person other than a licensee engaged in the business of selling, purchasing, distributing, storing, transporting or delivering diesel fuel to submit periodic reports to the department regarding the disposition of the fuel. The reports must be on forms prescribed by the department and must contain any information the department requires.

(4) Every person operating any conveyance for the purpose of hauling, transporting or delivering diesel fuel in bulk shall possess, during the entire time the person is hauling diesel fuel, an invoice, bill of sale or other statement showing the name, address and license number of the seller or consigner, the destination, name and address of the purchaser or consignee, the license number of the purchaser or consignee, if applicable, and the number of gallons transported. The person hauling diesel fuel shall produce, at the request of any law enforcement officer or authorized representative of the department, the invoice, bill of sale or other statement and shall permit the officer or representative to inspect and gauge the contents of the vehicle.

(5) Every person subject to the record keeping requirements of this section shall retain and make available to the department all source documents in the form of invoices, bills of sale and other documents that clearly support the records as presented to the department pursuant to this section.

(6) Every licensee shall keep a true and accurate record on such forms as the department may prescribe of all stocks of diesel fuel on hand. Every licensee shall take a physical inventory of all diesel fuel at least once during each calendar month and have the record of such inventory available at all times for inspection by the department. Upon demand by the department, every licensee shall furnish a statement under oath as to the contents of any records required under this subsection.

SECTION 19. (1) The Department of Transportation, or its duly authorized agents, may examine the accounts, records, stocks, facilities and equipment of diesel fuel licensees, dealers, brokers, service stations and other persons engaged in transporting, storing, selling or distributing diesel fuel or other petroleum products within this state, and make any other investigations that it considers necessary in carrying out the provisions of sections 1 to 41 of this 1999 Act. If the examinations or investigations disclose that any reports of licensees or other persons theretofore filed with the department pursuant to the requirements of sections 1 to 41 of this 1999 Act have shown incorrectly the amount in gallons of diesel fuel distributed or the tax, penalty or interest accruing thereon, the department may make any changes in subsequent reports and payments of such persons, or may make any refunds, that are necessary to correct the errors disclosed by its examinations or investigations.

(2) The Department of Transportation may not divulge the business affairs, operations or information obtained by an investigation of records and equipment of any licensee or other person visited or examined in the discharge of official duty under sections 1 to 41 of this 1999 Act, or the amount or sources of income, profits, losses, expenditures or any particular thereof, set forth or disclosed in any report, or permit any report or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law. However, the department may authorize examination of such reports by and the giving of information therein contained to other state officers, or tax officers of another state or the federal government if a reciprocal arrangement exists.

(3) In enforcing the provisions of sections 1 to 41 of this 1999 Act, the department or its duly authorized agents may at any time during normal business hours examine the books and accounts of any diesel fuel licensee operating within this

state for the purpose of checking shipments or use of diesel fuel, or detecting diversions of diesel fuel or evasion of the tax on diesel fuel.

SECTION 20. (1) For the purpose of determining the amount of liability for the tax imposed under section 2 of this 1999 Act and to periodically update license information, each licensee other than a diesel fuel distributor, international fuel tax agreement licensee or dyed diesel fuel user shall file monthly tax reports with the Department of Transportation on forms prescribed by the department.

(2) Dyed diesel fuel users whose estimated annual tax liability is \$250 or less shall file reports annually. Dyed diesel fuel users whose estimated annual tax liability is more than \$250 shall file reports quarterly. Diesel fuel users licensed under an international fuel tax agreement shall file reports quarterly.

(3) At the time the diesel fuel license is issued, the department shall establish the reporting frequency for each licensee for which reporting frequency is not determined under subsection (1) or (2) of this section. If it becomes apparent that a licensee is not reporting in accordance with the established schedule, the department shall change the licensee's reporting frequency by giving 30 days' notice to the licensee by mail to the licensee's address of record. A report shall be filed with the department even though no diesel fuel was used, or no tax is due, for the reporting period.

(4) Each tax report shall contain a declaration by the licensee to the effect that the statements contained therein are true and are made under penalty of perjury. The report shall contain information that the department finds necessary for the proper administration and enforcement of the provisions of sections 1 to 41 of this 1999 Act.

(5) A licensee shall file a tax report on or before the last day of the next succeeding calendar month following the period to which the report relates.

(6) Subject to the written approval of the department, tax reports may cover a period ending on a day other than the last day of the calendar month. Licensees granted approval to file reports in this manner shall file the reports on or before the 25th day following the end of the reporting period. No change to this reporting period shall be made without the written authorization of the department.

(7) If the final filing date falls on a Saturday, Sunday or legal holiday, the next business day thereafter shall be the final filing date. Tax reports shall be considered filed or received on the date shown by the post office cancellation mark stamped upon the envelope containing the report properly addressed to the department, or on the date it was mailed, if proof satisfactory to the department is available to establish the mailing date. Envelopes received within five business days of the final filing date shall be accepted as timely filed if the post office cancellation mark is not present or is not legible. Envelopes received after the fifth business day after the final filing date shall be deemed to have not been timely filed if the post office cancellation mark is not present or is not legible.

(8) The department, if it deems it necessary in order to ensure payment of the tax imposed under section 2 of this 1999 Act or to facilitate the administration of sections 1 to 41 of this 1999 Act, may require the filing of reports and tax remittances at intervals of less than one month if, in its opinion, an existing bond, irrevocable letter of credit or other security has become impaired or inadequate.

(9) The signed report filed with the department as required by this section is a public record. All other documents, including supporting schedules and information received from other taxing jurisdictions and entities, shall be kept confidential and exempt from public disclosure except that the information may be shared with tax collecting entities in other jurisdictions if the receiving jurisdiction agrees to keep the information confidential.

(10) Notwithstanding subsection (9) of this section, the

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department shall disclose to the Legislative Revenue Officer or an authorized representative of the Legislative Revenue Officer the information described in this section if the request for the information is made in writing, specifies the purposes for which the request is made or information is required and is signed by the Legislative Revenue Officer or an authorized representative. Information that is confidential under subsection (9) of this section shall be kept confidential by the Legislative Revenue Officer or the representative of the Legislative Revenue Officer.

SECTION 21. (1) The tax imposed under section 2 of this 1999 Act shall be computed by multiplying the tax rate per gallon provided in section 2 of this 1999 Act by the number of gallons of diesel fuel subject to the diesel fuel tax. The tax shall be paid to the state by diesel fuel suppliers, who shall collect the tax from diesel fuel distributors.

(2) Each supplier may retain an amount equal to two percent of the amount of tax collected by the supplier as a fee for making the collection. The fee shall be distributed as follows:

(a) One-half shall be retained by the supplier.

(b) One-half shall be passed to the distributor. If the diesel fuel is resold by the distributor to another distributor, the selling distributor shall pass on one-half of its one-half to the buying distributor.

(3) At the election of the distributor, the payment of the diesel fuel tax owed on diesel fuel purchased from a supplier shall be remitted to the supplier on terms agreed to by the distributor and the supplier no later than the 22nd day of the month next succeeding the month the liability for the tax is incurred by the supplier. This election shall be subject to a condition that the distributor's remittances of all amounts of diesel fuel tax due to the supplier shall be paid by electronic funds transfer. The distributor's election may be terminated by the supplier if the distributor does not make timely payments to the supplier as required by this section. This subsection does not apply if the distributor is required by the supplier to pay cash or a cash equivalent for diesel fuel purchases.

(4) The tax owed to the state is due on the date a report is required to be filed under section 20 of this 1999 Act.

SECTION 22. (1) A diesel fuel supplier shall notify, no later than the 20th day or the next business day following the 20th day after the diesel fuel tax is due from the diesel fuel distributor under section 21 of this 1999 Act, the Department of Transportation of the failure of a diesel fuel distributor to pay the full amount of the tax owed.

(2) Upon notification and submission of satisfactory evidence by a supplier that a distributor has failed to comply with section 21 of this 1999 Act, the department may suspend the license of the distributor. The unpaid tax liability due from the distributor shall be immediately due and payable to the Department of Transportation.

(3) Upon the suspension of the license, the department shall immediately notify all suppliers that the authority of the distributor to purchase tax-deferred diesel fuel has been suspended and that tax must be paid by the distributor on all subsequent purchases of diesel fuel at the time of removal.

(4) If, after notification by the department, a supplier continues to sell tax-deferred diesel fuel to a distributor whose license is suspended, the supplier's license is subject to revocation or suspension under this section or section 16 of this 1999 Act. If notified of a license suspension, a supplier is liable for any unpaid diesel fuel tax owed on diesel fuel sold to a distributor whose license has been suspended.

SECTION 23. (1) Except as provided in subsection (3) of this section, if any supplier or other diesel fuel licensee with tax due under sections 1 to 41 of this 1999 Act is delinquent in remitting the tax imposed under section 2 of this 1999 Act on the date specified in section 20 or 21 of this 1999 Act, the Department of Transportation shall assess a penalty of 10 percent of the tax unpaid by the due date.

(2) If a report required by section 20 of this 1999 Act is not received on or before the due date of the report, the department shall assess a penalty of 10 percent of the tax unpaid by the due date, or, if the department determines that no tax is due, the department shall assess a penalty of \$50.

(3) If the department determines that the delinquency was due to reasonable cause and without any intent to avoid payment, the penalties provided in subsections (1) and (2) of this section may be waived.

(4)(a) If any licensee sells, distributes or uses any diesel fuel without first furnishing the bond, irrevocable letter of credit or other security required by section 14 of this 1999 Act or obtaining the license required by section 11 of this 1999 Act, the tax imposed under section 2 of this 1999 Act shall immediately be due and payable on account of all diesel fuel so sold, distributed or used.

(b) Except as otherwise provided in this paragraph, the department shall proceed forthwith to determine, from the best available sources, the amount of tax due under paragraph (a) of this subsection, and the department shall immediately assess the tax and interest in the amount found due, together with a penalty of 100 percent of the tax, and shall make its certificate of such assessment and penalty. The department may waive all or part of a penalty imposed under this paragraph if the department determines that a violation of the requirement to furnish the security or to obtain the license was due to reasonable cause. In any suit or proceeding to collect such tax, interest or penalty, the certificate is prima facie evidence that the licensee therein named is indebted to the State of Oregon in the amount of the tax, interest and penalty therein stated.

(5)(a) If the tax imposed under section 2 of this 1999 Act is not paid as required by sections 1 to 41 of this 1999 Act, interest shall be charged at the rate of .0329 percent per day until the tax and interest have been paid in full.

(b) If the tax imposed under section 2 of this 1999 Act is overpaid, the department may credit interest to the account of the taxpayer in the amount of .0329 percent per day up to a maximum amount that equals any interest assessed against the taxpayer under paragraph (a) of this subsection in any given audit period.

SECTION 24. (1) Any person who violates any of the provisions of sections 1 to 41 of this 1999 Act, any person who makes any false statement in any statement required by sections 1 to 41 of this 1999 Act for the refund of any moneys or taxes as provided in sections 1 to 41 of this 1999 Act, or any person who collects or causes any tax to be repaid to the person or to any other person without being entitled to that tax under the provisions of sections 1 to 41 of this 1999 Act, shall, upon conviction, be punished by a fine of not more than \$1,000, or by imprisonment in the county jail for not more than six months, or both.

(2) Knowingly and willfully failing to report and pay a tax liability to the Department of Transportation as required by sections 20 and 21 of this 1999 Act is theft of public money and, upon conviction, is punishable as provided in ORS 164.043 to 164.057.

(3)(a) A person may not, through false statement, trick, device or otherwise, obtain diesel fuel for export upon which the Oregon tax has not been paid and fail to export the diesel fuel or any portion thereof, or cause the diesel fuel or any portion thereof not to be exported, nor divert the diesel fuel or any portion thereof, or cause the diesel fuel to be diverted from interstate or foreign transit begun in this state, nor unlawfully return the diesel fuel or any portion thereof to be used or sold in this state and fail to notify the department and the licensee from whom the diesel fuel was originally purchased of the person's act. A licensee or other person may not conspire with any person to withhold from export, divert from interstate or foreign transit begun in this state, or return diesel fuel to this state for sale or use for the purpose of avoiding any of the taxes imposed under section 2 of this 1999 Act.

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(b) Violation of paragraph (a) of this subsection is punishable, upon conviction, by a fine of not more than \$5,000, or by imprisonment in the county jail for not more than six months, or both.

(4) Justice courts have concurrent jurisdiction with circuit courts over all violations under the provisions of sections 1 to 41 of this 1999 Act.

SECTION 25. The remedies of the state provided in sections 1 to 41 of this 1999 Act are cumulative. No action taken pursuant to sections 1 to 41 of this 1999 Act shall relieve any person from the criminal penalty provisions of section 24 of this 1999 Act.

SECTION 26. The tax and any penalty imposed upon a licensee under sections 1 to 41 of this 1999 Act shall constitute a lien in favor of the State of Oregon upon all franchises, property and rights to property, whether real or personal, then belonging to or thereafter acquired by the licensee, whether such property is employed by the licensee for personal or business use or is in the hands of a trustee, receiver or assignee for the benefit of creditors, from the date the tax was due and payable until the amount of the lien is paid or the property is sold in payment of the lien. The lien is paramount to all private liens or encumbrances of whatever character upon the property except that such lien shall not be valid against any bona fide mortgagee, pledgee, judgment creditor or purchaser whose rights have attached prior to the time the Department of Transportation has filed and recorded notice of the lien.

SECTION 27. If a licensee is delinquent in the payment of any obligation imposed under sections 1 to 41 of this 1999 Act, the Department of Transportation may give notice of the amount of such delinquency by registered or certified mail to all persons having in their possession or under their control any credits or other personal property belonging to the licensee, or owing any debts to such licensee, at the time of the receipt by those persons of the notice. Thereafter, any person so notified shall neither transfer nor make other disposition of such credits, personal property or debts until the department has consented to a transfer or other disposition or until 30 days have elapsed from and after the receipt of the notice. All persons so notified shall, within five days after the receipt of the notice, advise the department of all such credits, personal property or debts in their possession, under their control or owing by them, as the case may be.

SECTION 28. (1) If a licensee is delinquent in the payment of any obligation imposed under sections 1 to 41 of this 1999 Act, the Department of Transportation may proceed to collect the amount due from the licensee in the manner prescribed in this section.

(2) The department shall seize any property subject to the lien provided for in section 26 of this 1999 Act and sell the property at public auction to pay such obligation and any and all costs that may have been incurred on account of the seizure and sale.

(3) Notice of the intended sale and the time and place of the sale shall be given to the delinquent licensee and to all persons appearing of record to have an interest in the property. The notice shall be given in writing at least 10 days before the date set for the sale by enclosing it in an envelope addressed to the licensee at the address as it appears in the records of the department and, in the case of any person appearing of record to have an interest in the property, addressed to the person at the last-known residence or place of business, and depositing the envelope in the United States mail, postage prepaid. In addition, the notice shall be published at least three times, the first of which shall be not less than 10 days before the date set for the sale, in a newspaper of general circulation published in the county in which the property seized is to be sold. If there is no newspaper of general circulation in the county, the notice shall be posted in three public places in the county for a period of 10 days.

(4) The notice shall contain a description of the property to be sold, together with a statement of the amount due under

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sections 1 to 41 of this 1999 Act, the name of the licensee and the further statement that, unless such amount is paid before the time fixed in the notice, the property will be sold in accordance with the law and the notice.

(5) The department shall then proceed to sell the property in accordance with the law and the notice and shall deliver to the purchaser a bill of sale that vests title in the purchaser. If upon the sale the moneys received exceed the amount due to the state under sections 1 to 41 of this 1999 Act from the delinquent licensee, the excess shall be returned to the licensee and a receipt obtained therefor. If any person having an interest in or lien upon the property has filed with the department notice of such interest or lien prior to the sale, the department shall withhold payment of any such excess to the licensee pending a determination of the rights of the respective parties to the property by a court of competent jurisdiction. If for any reason the receipt of the licensee is not available, the department shall deposit the excess with the State Treasurer as trustee for the licensee, the heirs, successors or assigns of the licensee.

SECTION 29. (1) Whenever any licensee is delinquent in the payment of any obligation under sections 1 to 41 of this 1999 Act, the Department of Transportation may transmit notice of the delinquency to the Attorney General, who shall at once proceed to collect the tax and penalty due by appropriate legal action.

(2) In any suit brought to enforce the rights of the state under sections 1 to 41 of this 1999 Act, a certificate by the department showing the delinquency is prima facie evidence of the amount of the obligation, of the delinquency thereof and of compliance by the department with all provisions of sections 1 to 41 of this 1999 Act relating to the obligation.

SECTION 30. (1) If the Department of Transportation is not satisfied that a report filed is correct or the amount of tax or penalty paid to the state by a licensee is correct, the department may assess the tax and penalty due based upon any information available to the department.

(2) If a licensee fails to account satisfactorily for any diesel fuel sold or disposed of, it shall be presumed that the diesel fuel not accounted for was diverted to a use subject to the tax imposed under section 2 of this 1999 Act without taxes being paid in accordance with the requirements of sections 1 to 41 of this 1999 Act.

(3) The department shall give to the licensee written notice of the assessment. The notice may be served personally or by mail. If made by mail, service shall be made by depositing the notice in the United States mail, postage prepaid, addressed to the licensee at the address as it appears in the records of the department.

SECTION 31. (1) If a licensee fails to make a report required by section 20 of this 1999 Act, the Department of Transportation shall make an estimate, based upon any information available to the department, for the month or months with respect to which the licensee failed to make a report, and assess the tax and penalty due from the licensee under sections 1 to 41 of this 1999 Act.

(2) The department shall give to the licensee written notice of the assessment in the manner prescribed by section 30 (3) of this 1999 Act.

SECTION 32. (1) Any licensee against whom an assessment is made under section 30 or 31 of this 1999 Act may petition the Department of Transportation for a reassessment within 30 days after service of notice of the assessment. If a petition is not filed within the 30-day period, the amount of the assessment becomes conclusive.

(2) If a petition for reassessment is filed within the 30-day period, the department shall reconsider the assessment and, if requested in the petition, shall grant the licensee an oral hearing and give the licensee 10 days' written notice of the time and place of the hearing. The department may continue the hearing from time to time. The department shall serve on the petitioner notice of its finding upon reassessment. If the finding is that a tax or penalty is delinquent, the petitioner

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shall pay to the department, within 30 days after notice is served, all of the tax or penalty found to be delinquent.

(3) Notice required by this section shall be served in the manner prescribed by section 30 (3) of this 1999 Act.

SECTION 33. Any person aggrieved by a finding, order or determination by the Department of Transportation under section 16 or 32 of this 1999 Act may appeal therefrom to the circuit court of the county in which the person resides. The appeal shall be taken within 60 days from the date of the entry or making of such order, finding or determination and in the manner provided by law for appeals in actions at law.

SECTION 34. Except in the case of an alleged fraudulent report, or neglect or refusal to make a report, no notice of assessment shall be served on a licensee after three years have expired since the alleged erroneous report was filed or a report should have been filed.

SECTION 35. (1) If the Department of Transportation determines that any amount of tax or penalty has been paid more than once or has been erroneously or illegally collected, the department shall credit such amount against any amounts then due from the licensee under sections 1 to 41 of this 1999 Act and shall refund any balance to the licensee or to the successor, administrator or executor of the licensee.

(2) A licensee may claim a credit or refund for any amount of tax or penalty that the licensee has paid more than once, or that has been paid or collected erroneously or illegally. No claim for a credit or refund shall be allowed unless the claim is filed with the department within three years from the date of the payment or collection or, with respect to an assessment made under section 30 or 31 of this 1999 Act, within six months after the assessment becomes conclusive, whichever period expires later. Every claim must be in writing and must state the specific grounds upon which it is founded. Failure to file a claim within the time prescribed in this section shall constitute a waiver of any and all demands against the state for overpayments under sections 1 to 41 of this 1999 Act. Within 30 days of allowing or disallowing any such claim in whole or in part, the department shall serve notice of the action on the claimant. The service shall be made in the manner prescribed by section 30 (3) of this 1999 Act.

SECTION 36. (1) If a user obtains diesel fuel for use in a motor vehicle in this state and pays the diesel fuel tax on the fuel obtained and does not present a claim for a refund under subsection (2) of this section, the user may apply for a refund of that part of the tax paid that is applicable to use of the diesel fuel to propel a motor vehicle:

(a) In another state, if the user pays to the other state an additional tax on the same diesel fuel;

(b) Upon any road, thoroughfare or property in private ownership;

(c) Upon any road, thoroughfare or property, other than a state highway, county road or city street, for the removal of forest products, as defined in ORS 321.005, or the products of such forest products converted to a form other than logs at or near the harvesting site, or for the construction or maintenance of the road, thoroughfare or property, pursuant to a written agreement or permit authorizing the use, construction or maintenance of the road, thoroughfare or property, with or by:

- (A) An agency of the United States;
- (B) The State Board of Forestry;
- (C) The State Forester; or
- (D) A licensee of an agency named in subparagraph (A), (B) or (C) of this paragraph;

(d) By an agency of the United States or of this state or of any county, city or port of this state on any road, thoroughfare or property, other than a state highway, county road or city street;

(e) By an agency of the United States or by any city, transportation district, mass transportation district or metropolitan service district of this state; or

(f) When used exclusively in the improvement, construc-

tion and maintenance of public highways by any county of this state or by any road assessment district formed under ORS 371.405 to 371.535.

(2) The department shall allow refunds as provided in this subsection to a licensee or user presenting a claim who does not apply for a refund under subsection (1) of this section. Refunds shall be given under this subsection as follows:

(a) For diesel fuel used in operating a power take-off unit on a concrete mixer, self-loading log truck, garbage truck or recycling truck, where there is no separate fuel supply tank for the power take-off unit, a claimant shall be allowed a refund of 45 percent of the tax paid. The department may establish by rule additional formulas for determining diesel fuel usage when operating other types of equipment by means of power take-off units when direct measurement of the diesel fuel used is not feasible.

(b) For diesel fuel used in a motor vehicle designed to carry logs, poles, pilings, sand or gravel, a claimant shall be allowed a refund of up to 25 percent of the tax paid on all diesel fuel used by the claimant in this state, provided that the claimant shows evidence of the total number of gallons of diesel fuel used in this state on the highways and of the total number of gallons used in this state off the highways. However, log trucks may claim a refund of up to 15 percent of the tax paid without providing evidence of the total number of gallons of diesel fuel used in this state on the highways and of the total number of gallons used in this state off the highways.

(c) For diesel fuel used in operating a motor vehicle exclusively owned and operated by an investor-owned utility, a claimant shall be allowed a refund of 70 percent of the tax paid.

(d) For diesel fuel where there is a separate fuel supply dedicated to the operation of ancillary equipment and not used to propel the motor vehicle, a claimant shall be allowed a refund of 100 percent of the tax paid.

(3) An application for a refund under subsection (1) or (2) of this section shall be filed with the department within 15 months after the payment of diesel fuel tax for which a refund is claimed.

(4) The application for a refund provided by subsection (1) or (2) of this section shall include a signed statement by the applicant indicating the amount of diesel fuel for which a refund is claimed, and the manner in which the diesel fuel was used that qualifies the applicant for a refund. If the diesel fuel upon which the refund is claimed was obtained from a seller to whom the diesel fuel tax was paid, the application shall be supported by the invoices that cover the purchase of the diesel fuel. If the applicant paid the diesel fuel tax directly to the department, the applicant shall indicate the source of the diesel fuel and the date it was obtained.

(5) The department may require any person who applies for a refund provided by subsection (1) or (2) of this section to furnish a statement, under oath, giving the person's occupation, a description of the machines or equipment in which the diesel fuel was used, the place where the diesel fuel was used and any other information the department may require.

SECTION 37. The Department of Transportation may investigate refund applications submitted under section 36 of this 1999 Act and gather and compile any information in regard to the applications that it considers necessary to safeguard the state and prevent fraudulent practices in connection with tax refunds and tax evasions. The department may, in order to establish the validity of an application, examine the books and records of the applicant for such purposes. Failure of the applicant to accede to the demand for examination constitutes a waiver of all rights to a refund for the transaction questioned.

SECTION 38. Notwithstanding any other provision of law, the Department of Transportation may enter into agreements with the governing body of any Indian tribe residing on a reservation in Oregon to provide refunds to the tribe of state diesel fuel taxes for diesel fuel purchased on the reservation

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and used by tribal members on tribal reservation lands, other than for diesel fuel used on state highways, county roads or city streets supported by the State Highway Fund.

SECTION 39. The ultimate liability for the tax imposed under section 2 of this 1999 Act is upon the user, regardless of the manner in which collection of the tax is provided for in sections 1 to 41 of this 1999 Act.

SECTION 40. (1) The Department of Transportation may adopt any rules it considers necessary to implement and enforce the provisions of sections 1 to 41 of this 1999 Act.

(2) The department may enter into a fuel tax cooperative agreement with another state or a Canadian province for the administration, collection and enforcement of each state's or province's diesel fuel taxes.

SECTION 41. (1) Except as otherwise specifically provided in this section, violation by a person of any requirement of sections 1 to 41 of this 1999 Act is a misdemeanor.

(2) A licensee who appropriates or converts the tax collected by the licensee under section 2 of this 1999 Act to the licensee's own use or to any use other than the payment of the tax, to the extent that the moneys required to be collected are not available for payment on the due date as prescribed in sections 20 and 21 of this 1999 Act, is guilty of theft of public money and, upon conviction, may be punished as provided in ORS 164.043 to 164.057.

(3) Justice courts have concurrent jurisdiction with the circuit court of all violations of the provisions of sections 1 to 41 of this 1999 Act.

NOTE: Section 42 was deleted by amendment. Subsequent sections were not renumbered.

SECTION 43. ORS 803.645 is amended to read:

803.645. Fees for trip permits issued under ORS 803.600 are as follows:

(1) For a heavy motor vehicle trip permit, [~~\$21~~] **\$42 for a three-day permit and \$15 for a one-day permit.**

(2) For a heavy trailer trip permit, [~~\$10~~] **\$20.**

(3) For a light vehicle trip permit:

(a) For 10 days, \$5.

(b) For 30 days, \$10.

(c) For 60 days, \$20.

(d) For 90 days, \$30.

(e) For 120 days, \$40.

(4) For a recreational vehicle trip permit, \$30.

(5) For a registration weight trip permit, [~~\$5~~] **\$10.**

(6) For a registered vehicle trip permit, [~~\$5~~] **\$10.**

(7) For a manufactured structure trip permit, \$5.

SECTION 44. ORS 818.270 is amended to read:

818.270. (1) **Except as otherwise provided in subsection (5) of this section,** the fee for issuance of a variance permit under ORS 818.200 may be any amount determined by a road authority, not to exceed [~~\$8~~] **\$16.** If the variance permit is issued by a private contractor, the contractor may charge an additional fee not to exceed \$5, **plus an amount to be determined by the Department of Transportation by rule, not to exceed \$16, for each road jurisdiction in which travel is authorized by the permit.**

(2) The fee for issuance of a sifting or leaking load permit under ORS 818.230 is [~~\$8~~] **\$16.**

(3) The fee for issuance of a dragging permit under ORS 818.240 is \$8.

(4) The fee for issuance of a permit under ORS 818.260 for the use of bus safety lights is a fee established by rule by the Department of Transportation. Any fee established for purposes of this subsection shall not exceed the actual costs of issuing the permit.

(5) **In addition to the fee described in subsection (1) of this section, the fee paid for issuance of a variance permit described in ORS 818.200, the following fees shall be paid for a separate continuous permit issued under ORS 818.200 for each of the following configurations:**

Weight Groups (Pounds)	Number of Axles		
	5	6	7
80,001 to 82,000	\$ 165.00		
82,001 to 84,000	173.25		
84,001 to 86,000	181.91		
86,001 to 88,000	191.01		
88,001 to 90,000	200.56		
90,001 to 92,000	210.59	\$ 165.00	
92,001 to 94,000	221.12	173.25	
94,001 to 96,000	232.17	181.91	
96,001 to 98,000	243.78	191.01	
98,001 to 100,000		200.56	\$ 165.00
100,001 to 102,000			173.25
102,001 to 104,000			181.91
104,001 to 105,500			191.01

SECTION 44a. If House Bill 2635 becomes law, section 2, chapter _____, Oregon Laws 1999 (Enrolled House Bill 2635), is amended to read:

Sec. 2. (1) The Department of Transportation, in consultation with other road authorities, shall develop and implement a system of issuing continuous operation variance permits. The system shall allow a person to obtain one permit that is valid for every road authority in whose jurisdiction the person will travel.

(2) The department, in consultation with other road authorities, shall develop standards for terms and conditions of continuous operation variance permits. The standards shall be applicable throughout the state and shall honor size and weight restrictions established by any road authority for highways and structures under its jurisdiction.

(3) If requested to do so by another road authority, the department shall contract with that road authority to allow the authority to distribute permits described in this section. The department may contract with private contractors to distribute permits described in this section.

(4) Notwithstanding any other provision of law, a road authority other than the department may not issue a continuous operation variance permit for its roads unless the road authority participates in the system developed under subsection (1) of this section.

(5) For purposes of provisions of Oregon Revised Statutes referring to permits issued under ORS 818.200, a permit issued under this section shall be considered a permit issued under ORS 818.200, unless to so consider the permit contradicts a specific provision of this section.

(6) The fee for a permit issued under this section that is valid for travel in more than one road authority jurisdiction shall be an amount determined by the department by rule, not to exceed [~~\$8~~] **\$16,** plus an additional amount to be determined by the department by rule, not to exceed \$8, for each jurisdiction in which travel is authorized by the permit.

SECTION 45. On July 1, 2000, ORS 803.420, as amended by section 102 of this 1999 Act, is amended to read:

803.420. This section establishes registration fees for vehicles. If there is uncertainty as to the classification of a vehicle for purposes of the payment of registration fees under the vehicle code, the Department of Transportation may classify the vehicle to ensure that registration fees for the vehicle are the same as for vehicles the department determines to be comparable. The registration fees for the vehicle shall be those based on the classification determined by the department. The fees described in this section are for an entire registration period for the vehicle as described under ORS 803.415, unless the vehicle is registered quarterly. The department shall apportion any fee under this section to reflect the number of quarters registered for a vehicle registered for a quarterly registration period under ORS 803.415. The fees are payable when a vehicle is registered and upon renewal of registration. Except as provided in ORS 801.041 (3) and 801.042 (7), the fee shall be increased by any amount established by the governing body of a county or by the governing body of a district, as defined in ORS 801.237 under ORS 801.041 or 801.042 as an additional registration fee for the vehicle. The fees for registration of vehicles are as follows:

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- (1) Vehicles not otherwise provided for in this section or ORS 820.580 or 821.320, \$40.
- (2) Mopeds, \$9.
- (3) Motorcycles, \$9.
- (4) Government-owned vehicles registered under ORS 805.040, \$2.
- (5) State-owned vehicles registered under ORS 805.045, \$2 on registration or renewal.
- (6) Undercover vehicles registered under ORS 805.060, \$2 on registration or renewal.
- (7) Antique vehicles registered under ORS 805.010, \$30.
- (8) Vehicles of special interest registered under ORS 805.020, \$45.

- (9) Electric vehicles as follows:
 - (a) The registration fee for an electric vehicle not otherwise described in this subsection is \$60.
 - (b) The registration fee for electric vehicles that have two or three wheels is \$30. This paragraph does not apply to electric mopeds. Electric mopeds are subject to the same registration fee as otherwise provided for mopeds under this section.
 - (c) The registration fees for the following electric vehicles are the same as for comparable nonelectric vehicles described in this section plus 50 percent of such fee:
 - (A) Motor homes.
 - (B) Commercial buses.
 - (C) Vehicles registered as farm vehicles under ORS 805.300.
 - (D) Vehicles required to establish registration weight under ORS 803.430 or 826.013.

(10)(a) Except as otherwise provided in this subsection, motor vehicles required to establish a registration weight under ORS 803.430 or 826.013, and commercial buses as provided in the following chart, based upon the weight submitted in the declaration of weight prepared under ORS 803.435 or 826.015:

Weight in Pounds	Fee
8,000 or less	\$ 20
8,001 to 10,000	75
10,001 to 12,000	135
12,001 to 14,000	160
14,001 to 16,000	230
16,001 to 18,000	230
18,001 to 20,000	230
20,001 to 22,000	230
22,001 to 24,000	230
24,001 to 26,000	230
26,001 to 28,000	120
28,001 to 30,000	125
30,001 to 32,000	135
32,001 to 34,000	140
34,001 to 36,000	150
36,001 to 38,000	155
38,001 to 40,000	165
40,001 to 42,000	170
42,001 to 44,000	180
44,001 to 46,000	185
46,001 to 48,000	190
48,001 to 50,000	200
50,001 to 52,000	210
52,001 to 54,000	215
54,001 to 56,000	220
56,001 to 58,000	230
58,001 to 60,000	240
60,001 to 62,000	250
62,001 to 64,000	260
64,001 to 66,000	265
66,001 to 68,000	275
68,001 to 70,000	280
70,001 to 72,000	290
72,001 to 74,000	295
74,001 to 76,000	305
76,001 to 78,000	310
78,001 to 80,000	320
80,001 to 82,000	325

82,001 to 84,000	335
84,001 to 86,000	340
86,001 to 88,000	350
88,001 to 90,000	355
90,001 to 92,000	365
92,001 to 94,000	370
94,001 to 96,000	380
96,001 to 98,000	385
98,001 to 100,000	390
100,001 to 102,000	400
102,001 to 104,000	405
104,001 to 105,500	415

Weight in Pounds	Fixed Fee	Variable Fee	Total
8,000 or less	\$ 20		\$ 20
8,001 to 10,000	75		75
10,001 to 12,000	135		135
12,001 to 14,000	160		160
14,001 to 16,000	230		230
16,001 to 18,000	230		230
18,001 to 20,000	230		230
20,001 to 22,000	230		230
22,001 to 24,000	230		230
24,001 to 26,000	230		230
26,001 to 28,000	245	\$ 1,130	1,375
28,001 to 30,000	255	1,178	1,433
30,001 to 32,000	276	1,272	1,548
32,001 to 34,000	286	1,319	1,605
34,001 to 36,000	306	1,413	1,719
36,001 to 38,000	316	1,460	1,776
38,001 to 40,000	337	1,554	1,891
40,001 to 42,000	347	1,601	1,948
42,001 to 44,000	367	1,696	2,063
44,001 to 46,000	377	1,743	2,120
46,001 to 48,000	388	1,790	2,178
48,001 to 50,000	408	1,884	2,292
50,001 to 52,000	428	1,978	2,406
52,001 to 54,000	439	2,025	2,464
54,001 to 56,000	449	2,072	2,521
56,001 to 58,000	469	2,167	2,636
58,001 to 60,000	490	2,261	2,751
60,001 to 62,000	510	2,355	2,865
62,001 to 64,000	530	2,449	2,979
64,001 to 66,000	541	2,496	3,037
66,001 to 68,000	561	2,591	3,152
68,001 to 70,000	571	2,638	3,209
70,001 to 72,000	591	2,732	3,323
72,001 to 74,000	602	2,779	3,381
74,001 to 76,000	622	2,873	3,495
76,001 to 78,000	632	2,920	3,552
78,001 to 80,000	653	3,014	3,667
80,001 to 82,000	663	3,062	3,725
82,001 to 84,000	683	3,156	3,839
84,001 to 86,000	693	3,203	3,896
86,001 to 88,000	714	3,297	4,011
88,001 to 90,000	724	3,344	4,068
90,001 to 92,000	744	3,438	4,182
92,001 to 94,000	754	3,485	4,239
94,001 to 96,000	775	3,580	4,355
96,001 to 98,000	785	3,627	4,412
98,001 to 100,000	795	3,674	4,469
100,001 to 102,000	816	3,768	4,584
102,001 to 104,000	826	3,815	4,641
104,001 to 105,500	846	3,909	4,755

- (b) Concrete mixers and motor vehicles described in paragraph (a) of this subsection that primarily carry logs, poles, pilings, sand or gravel, the fixed fee determined under paragraph (a) of this subsection, plus a variable fee of \$900.
- (c) Motor vehicles described in paragraph (a) of this subsection that are used for transporting garbage or

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recyclables, the fixed fee determined under paragraph (a) of this subsection, plus a variable fee of \$430.

(d) Motor vehicles described in paragraph (a) of this subsection that weigh at least 26,001 pounds and not more than 60,000 pounds, that traveled less than 30,000 miles in the year immediately preceding the year for which they are being registered and that are not otherwise described in paragraphs (b) to (g) of this subsection, the fixed fee determined under paragraph (a) of this subsection.

(e) Motor vehicles described in paragraph (a) of this subsection that weigh at least 26,001 pounds and that traveled less than 5,000 miles in the year immediately preceding the year for which they are being registered, the fixed fee determined under paragraph (a) of this subsection.

(f) Motor vehicles described in paragraph (a) of this subsection that are exclusively owned and operated by investor-owned utilities, the fixed fee determined under paragraph (a) of this subsection.

(g) Motor vehicles that weigh at least 60,001 pounds and that are used exclusively in conjunction with the installation of heavy machinery, the fixed fee determined under paragraph (a) of this subsection.

(11)(a) Motor vehicles with a registration weight of more than 8,000 pounds that are described in ORS 825.015, that are operated by a charitable organization as described in ORS 825.017 (15), that are certified under ORS 822.205, [or] that are used exclusively to transport manufactured structures or that are registered by an individual or business whose principal activity involves waterworks construction and who is licensed under ORS 479.630 (13) or 537.747, as provided in the following chart:

Weight in Pounds	Fee
8,001 to 10,000	\$ 50
10,001 to 12,000	60
12,001 to 14,000	65
14,001 to 16,000	75
16,001 to 18,000	80
18,001 to 20,000	90
20,001 to 22,000	95
22,001 to 24,000	105
24,001 to 26,000	110
26,001 to 28,000	120
28,001 to 30,000	125
30,001 to 32,000	135
32,001 to 34,000	140
34,001 to 36,000	150
36,001 to 38,000	155
38,001 to 40,000	165
40,001 to 42,000	170
42,001 to 44,000	180
44,001 to 46,000	185
46,001 to 48,000	190
48,001 to 50,000	200
50,001 to 52,000	210
52,001 to 54,000	215
54,001 to 56,000	220
56,001 to 58,000	230
58,001 to 60,000	240
60,001 to 62,000	250
62,001 to 64,000	260
64,001 to 66,000	265
66,001 to 68,000	275
68,001 to 70,000	280
70,001 to 72,000	290
72,001 to 74,000	295
74,001 to 76,000	305
76,001 to 78,000	310
78,001 to 80,000	320
80,001 to 82,000	325
82,001 to 84,000	335
84,001 to 86,000	340
86,001 to 88,000	350
88,001 to 90,000	355

90,001 to 92,000	365
92,001 to 94,000	370
94,001 to 96,000	380
96,001 to 98,000	385
98,001 to 100,000	390
100,001 to 102,000	400
102,001 to 104,000	405
104,001 to 105,500	415

(b) The owner of a vehicle described in paragraph (a) of this subsection must certify at the time of initial registration, in a manner determined by the department by rule, that the motor vehicle will be used exclusively to transport manufactured structures or exclusively as described in ORS 822.210, 825.015 or 825.017 (15) or that the person meets the criteria in paragraph (a) of this subsection for registration of a vehicle by a person or business involved in waterworks construction. Registration of a vehicle described in paragraph (a) of this subsection is invalid if the vehicle is operated in any manner other than that described in the certification under this paragraph.

(12) Trailers registered under permanent registration, [\$10]\$30.

(13) Fixed load vehicles as follows:

(a) If a declaration of weight described under ORS 803.435 is submitted establishing the weight of the vehicle at 3,000 pounds or less, \$30.

(b) If no declaration of weight is submitted or if the weight of the vehicle is in excess of 3,000 pounds, \$75.

(14) Trailers for hire that are equipped with pneumatic tires made of an elastic material and that are not travel trailers, manufactured structures or trailers registered under permanent registration, \$15.

(15) Trailers registered as part of a fleet under an agreement reached pursuant to ORS 802.500, the same as the fee for vehicles of the same type registered under other provisions of the Oregon Vehicle Code.

(16) Travel trailers, campers and motor homes as follows, based on length as determined under ORS 803.425:

(a) For travel trailers or campers that are 6 to 10 feet in length, \$54.

(b) For travel trailers or campers over 10 feet in length, \$54 plus \$4.50 a foot for each foot of length over the first 10 feet.

(c) For motor homes over 10 feet in length, \$84 plus \$5 a foot for each foot of length over the first 10 feet.

(17) Special use trailers as follows, based on length as determined under ORS 803.425:

(a) For lengths 6 to 10 feet, \$30.

(b) For special use trailers over 10 feet in length, \$30 plus \$3 a foot for each foot of length over the first 10 feet.

(18) Fees for vehicles with proportional registration under ORS 826.009, or proportioned fleet registration under ORS 826.011, are as provided for vehicles of the same type under this section except that the fees shall be fixed on an apportioned basis as provided under the agreement established under ORS 826.007.

(19) For any vehicle that is registered under a quarterly registration period, a minimum of \$15 for each quarter registered plus an additional fee of \$1.

(20) In addition to any other fees charged for registration of vehicles in fleets under ORS 805.120, the department may charge the following fees:

(a) A \$2 service charge for each vehicle entered into a fleet.

(b) A \$1 service charge for each vehicle in the fleet at the time of renewal.

(21) The registration fee for vehicles with special registration for disabled veterans under ORS 805.100 is a fee of \$15.

(22) The registration fee for manufactured structures is as provided in ORS 820.580.

(23) Subject to subsection (19) of this section, the registration fee for motor vehicles registered as farm vehicles under ORS 805.300 is as follows based upon the registration weight given in the declaration of weight submitted under ORS 803.435:

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Weight in Pounds	Fee
8,000 or less	\$ 20
8,001 to 10,000	30
10,001 to 12,000	35
12,001 to 14,000	45
14,001 to 16,000	50
16,001 to 18,000	60
18,001 to 20,000	65
20,001 to 22,000	75
22,001 to 24,000	80
24,001 to 26,000	90
26,001 to 28,000	95
28,001 to 30,000	105
30,001 to 32,000	110
32,001 to 34,000	120
34,001 to 36,000	125
36,001 to 38,000	135
38,001 to 40,000	140
40,001 to 42,000	150
42,001 to 44,000	155
44,001 to 46,000	165
46,001 to 48,000	170
48,001 to 50,000	180
50,001 to 52,000	185
52,001 to 54,000	190
54,001 to 56,000	200
56,001 to 58,000	210
58,001 to 60,000	215
60,001 to 62,000	220
62,001 to 64,000	230
64,001 to 66,000	240
66,001 to 68,000	245
68,001 to 70,000	250
70,001 to 72,000	260
72,001 to 74,000	265
74,001 to 76,000	275
76,001 to 78,000	280
78,001 to 80,000	290
80,001 to 82,000	295
82,001 to 84,000	305
84,001 to 86,000	310
86,001 to 88,000	320
88,001 to 90,000	325
90,001 to 92,000	335
92,001 to 94,000	340
94,001 to 96,000	350
96,001 to 98,000	355
98,001 to 100,000	365
100,001 to 102,000	370
102,001 to 104,000	380
104,001 to 105,500	385

801.042 (7), the fee shall be increased by any amount established by the governing body of a county or by the governing body of a district, as defined in ORS 801.237 under ORS 801.041 or 801.042 as an additional registration fee for the vehicle. The fees for registration of vehicles are as follows:

- (1) Vehicles not otherwise provided for in this section or ORS 820.580 or 821.320, \$40.
- (2) Mopeds, \$9.
- (3) Motorcycles, \$9.
- (4) Government-owned vehicles registered under ORS 805.040, \$2.
- (5) State-owned vehicles registered under ORS 805.045, \$2 on registration or renewal.
- (6) Undercover vehicles registered under ORS 805.060, \$2 on registration or renewal.
- (7) Antique vehicles registered under ORS 805.010, \$30.
- (8) Vehicles of special interest registered under ORS 805.020, \$45.
- (9) Electric vehicles as follows:
 - (a) The registration fee for an electric vehicle not otherwise described in this subsection is \$60.
 - (b) The registration fee for electric vehicles that have two or three wheels is \$30. This paragraph does not apply to electric mopeds. Electric mopeds are subject to the same registration fee as otherwise provided for mopeds under this section.
 - (c) The registration fees for the following electric vehicles are the same as for comparable nonelectric vehicles described in this section plus 50 percent of such fee:
 - (A) Motor homes.
 - (B) Commercial buses.
 - (C) Vehicles registered as farm vehicles under ORS 805.300.
 - (D) Vehicles required to establish registration weight under ORS 803.430 or 826.013.
 - (10)(a) Except as otherwise provided in this subsection, motor vehicles required to establish a registration weight under ORS 803.430 or 826.013, and commercial buses as provided in the following chart, based upon the weight submitted in the declaration of weight prepared under ORS 803.435 or 826.015:

Weight in Pounds	Fixed Fee	Variable Fee	Total
8,000 or less	\$ 20		\$ 20
8,001 to 10,000	75		75
10,001 to 12,000	135		135
12,001 to 14,000	160		160
14,001 to 16,000	230		230
16,001 to 18,000	230		230
18,001 to 20,000	230		230
20,001 to 22,000	230		230
22,001 to 24,000	230		230
24,001 to 26,000	230		230
26,001 to 28,000	245	\$ 1,130	1,375
28,001 to 30,000	255	1,178	1,433
30,001 to 32,000	275	1,272	1,548
32,001 to 34,000	285	1,319	1,605
34,001 to 36,000	305	1,413	1,719
36,001 to 38,000	315	1,460	1,776
38,001 to 40,000	337	1,554	1,891
40,001 to 42,000	347	1,601	1,948
42,001 to 44,000	367	1,696	2,063
44,001 to 46,000	377	1,743	2,120
46,001 to 48,000	388	1,790	2,178
48,001 to 50,000	408	1,884	2,292
50,001 to 52,000	428	1,978	2,406
52,001 to 54,000	439	2,025	2,464
54,001 to 56,000	449	2,072	2,521
56,001 to 58,000	469	2,167	2,636
58,001 to 60,000	490	2,261	2,751
60,001 to 62,000	510	2,355	2,865
62,001 to 64,000	530	2,449	2,979
64,001 to 66,000	541	2,496	3,037
66,001 to 68,000	561	2,591	3,152
68,001 to 70,000	571	2,638	3,209

(24) The registration fee for school vehicles registered under ORS 805.050 is \$7.50.

SECTION 45a. On January 1, 2002, ORS 803.420, as amended by sections 45 and 102 of this 1999 Act, is amended to read:

803.420. This section establishes registration fees for vehicles. If there is uncertainty as to the classification of a vehicle for purposes of the payment of registration fees under the vehicle code, the Department of Transportation may classify the vehicle to ensure that registration fees for the vehicle are the same as for vehicles the department determines to be comparable. The registration fees for the vehicle shall be those based on the classification determined by the department. The fees described in this section are for an entire registration period for the vehicle as described under ORS 803.415, unless the vehicle is registered quarterly. The department shall apportion any fee under this section to reflect the number of quarters registered for a vehicle registered for a quarterly registration period under ORS 803.415. The fees are payable when a vehicle is registered and upon renewal of registration. Except as provided in ORS 801.041 (3) and

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70,001 to 72,000	591	2,732	3,323
72,001 to 74,000	602	2,779	3,381
74,001 to 76,000	622	2,873	3,495
76,001 to 78,000	632	2,920	3,552
78,001 to 80,000	653	3,014	3,667
80,001 to 82,000	663	3,062	3,725
82,001 to 84,000	683	3,156	3,839
84,001 to 86,000	693	3,203	3,896
86,001 to 88,000	714	3,297	4,011
88,001 to 90,000	724	3,344	4,068
90,001 to 92,000	744	3,438	4,182
92,001 to 94,000	754	3,485	4,239
94,001 to 96,000	775	3,580	4,355
96,001 to 98,000	785	3,627	4,412
98,001 to 100,000	795	3,674	4,469
100,001 to 102,000	816	3,768	4,584
102,001 to 104,000	826	3,815	4,641
104,001 to 105,500	846	3,909	4,755

Weight in Pounds	Fixed Fee	Variable Fee	Total
8,000 or less	\$ 20		\$ 20
8,001 to 10,000	80		80
10,001 to 12,000	135		135
12,001 to 14,000	160		160
14,001 to 16,000	230		230
16,001 to 18,000	230		230
18,001 to 20,000	230		230
20,001 to 22,000	230		230
22,001 to 24,000	230		230
24,001 to 26,000	230		230
26,001 to 28,000	245	\$ 1,590	1,835
28,001 to 30,000	255	1,656	1,911
30,001 to 32,000	276	1,789	2,065
32,001 to 34,000	286	1,855	2,141
34,001 to 36,000	306	1,988	2,294
36,001 to 38,000	316	2,054	2,370
38,001 to 40,000	337	2,186	2,523
40,001 to 42,000	347	2,253	2,600
42,001 to 44,000	367	2,385	2,752
44,001 to 46,000	377	2,451	2,828
46,001 to 48,000	388	2,518	2,906
48,001 to 50,000	408	2,650	3,058
50,001 to 52,000	428	2,783	3,211
52,001 to 54,000	439	2,849	3,288
54,001 to 56,000	449	2,915	3,364
56,001 to 58,000	469	3,048	3,517
58,001 to 60,000	490	3,180	3,670
60,001 to 62,000	510	3,313	3,823
62,001 to 64,000	530	3,445	3,975
64,001 to 66,000	541	3,511	4,052
66,001 to 68,000	561	3,644	4,205
68,001 to 70,000	571	3,710	4,281
70,001 to 72,000	591	3,843	4,434
72,001 to 74,000	602	3,909	4,511
74,001 to 76,000	622	4,041	4,663
76,001 to 78,000	632	4,108	4,740
78,001 to 80,000	653	4,240	4,893
80,001 to 82,000	663	4,306	4,969
82,001 to 84,000	683	4,439	5,122
84,001 to 86,000	693	4,505	5,198
86,001 to 88,000	714	4,638	5,352
88,001 to 90,000	724	4,704	5,428
90,001 to 92,000	744	4,836	5,580
92,001 to 94,000	754	4,903	5,657
94,001 to 96,000	775	5,035	5,810
96,001 to 98,000	785	5,101	5,886
98,001 to 100,000	795	5,168	5,963
100,001 to 102,000	816	5,300	6,116
102,001 to 104,000	826	5,366	6,192
104,001 to 105,500	846	5,499	6,345

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(b) Concrete mixers and motor vehicles described in paragraph (a) of this subsection that primarily carry logs, poles, pilings, sand or gravel, the fixed fee determined under paragraph (a) of this subsection, plus a variable fee of [\$900] **\$1,250**.

(c) Motor vehicles described in paragraph (a) of this subsection that are used for transporting garbage or recyclables, the fixed fee determined under paragraph (a) of this subsection, plus a variable fee of [\$430] **\$590**.

(d) Motor vehicles described in paragraph (a) of this subsection that weigh at least 26,001 pounds and not more than 60,000 pounds, that traveled less than 30,000 miles in the year immediately preceding the year for which they are being registered and that are not otherwise described in paragraphs (b) to (g) of this subsection, the fixed fee determined under paragraph (a) of this subsection.

(e) Motor vehicles described in paragraph (a) of this subsection that weigh at least 26,001 pounds and that traveled less than 5,000 miles in the year immediately preceding the year for which they are being registered, the fixed fee determined under paragraph (a) of this subsection.

(f) Motor vehicles described in paragraph (a) of this subsection that are exclusively owned and operated by investor-owned utilities, the fixed fee determined under paragraph (a) of this subsection.

(g) Motor vehicles that weigh at least 60,001 pounds and that are used exclusively in conjunction with the installation of heavy machinery, the fixed fee determined under paragraph (a) of this subsection.

(11)(a) Motor vehicles with a registration weight of more than 8,000 pounds that are described in ORS 825.015, that are operated by a charitable organization as described in ORS 825.017 (15), that are certified under ORS 822.205, that are used exclusively to transport manufactured structures or that are registered by an individual or business whose principal activity involves waterworks construction and who is licensed under ORS 479.630 (13) or 537.747, as provided in the following chart:

Weight in Pounds	Fee
8,001 to 10,000	\$ 50
10,001 to 12,000	60
12,001 to 14,000	65
14,001 to 16,000	75
16,001 to 18,000	80
18,001 to 20,000	90
20,001 to 22,000	95
22,001 to 24,000	105
24,001 to 26,000	110
26,001 to 28,000	120
28,001 to 30,000	125
30,001 to 32,000	135
32,001 to 34,000	140
34,001 to 36,000	150
36,001 to 38,000	155
38,001 to 40,000	165
40,001 to 42,000	170
42,001 to 44,000	180
44,001 to 46,000	185
46,001 to 48,000	190
48,001 to 50,000	200
50,001 to 52,000	210
52,001 to 54,000	215
54,001 to 56,000	220
56,001 to 58,000	230
58,001 to 60,000	240
60,001 to 62,000	250
62,001 to 64,000	260
64,001 to 66,000	265
66,001 to 68,000	275
68,001 to 70,000	280
70,001 to 72,000	290
72,001 to 74,000	295
74,001 to 76,000	305
76,001 to 78,000	310

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78,001	to	80,000	320
80,001	to	82,000	325
82,001	to	84,000	335
84,001	to	86,000	340
86,001	to	88,000	350
88,001	to	90,000	355
90,001	to	92,000	365
92,001	to	94,000	370
94,001	to	96,000	380
96,001	to	98,000	385
98,001	to	100,000	390
100,001	to	102,000	400
102,001	to	104,000	405
104,001	to	105,500	415

(b) The owner of a vehicle described in paragraph (a) of this subsection must certify at the time of initial registration, in a manner determined by the department by rule, that the motor vehicle will be used exclusively to transport manufactured structures or exclusively as described in ORS 822.210, 825.015 or 825.017 (15) or that the person meets the criteria in paragraph (a) of this subsection for registration of a vehicle by a person or business involved in waterworks construction. Registration of a vehicle described in paragraph (a) of this subsection is invalid if the vehicle is operated in any manner other than that described in the certification under this paragraph.

(12) Trailers registered under permanent registration, \$30.

(13) Fixed load vehicles as follows:

(a) If a declaration of weight described under ORS 803.435 is submitted establishing the weight of the vehicle at 3,000 pounds or less, \$30.

(b) If no declaration of weight is submitted or if the weight of the vehicle is in excess of 3,000 pounds, \$75.

(14) Trailers for hire that are equipped with pneumatic tires made of an elastic material and that are not travel trailers, manufactured structures or trailers registered under permanent registration, \$15.

(15) Trailers registered as part of a fleet under an agreement reached pursuant to ORS 802.500, the same as the fee for vehicles of the same type registered under other provisions of the Oregon Vehicle Code.

(16) Travel trailers, campers and motor homes as follows, based on length as determined under ORS 803.425:

(a) For travel trailers or campers that are 6 to 10 feet in length, \$54.

(b) For travel trailers or campers over 10 feet in length, \$54 plus \$4.50 a foot for each foot of length over the first 10 feet.

(c) For motor homes over 10 feet in length, \$84 plus \$5 a foot for each foot of length over the first 10 feet.

(17) Special use trailers as follows, based on length as determined under ORS 803.425:

(a) For lengths 6 to 10 feet, \$30.

(b) For special use trailers over 10 feet in length, \$30 plus \$3 a foot for each foot of length over the first 10 feet.

(18) Fees for vehicles with proportional registration under ORS 826.009, or proportioned fleet registration under ORS 826.011, are as provided for vehicles of the same type under this section except that the fees shall be fixed on an apportioned basis as provided under the agreement established under ORS 826.007.

(19) For any vehicle that is registered under a quarterly registration period, a minimum of \$15 for each quarter registered plus an additional fee of \$1.

(20) In addition to any other fees charged for registration of vehicles in fleets under ORS 805.120, the department may charge the following fees:

(a) A \$2 service charge for each vehicle entered into a fleet.

(b) A \$1 service charge for each vehicle in the fleet at the time of renewal.

(21) The registration fee for vehicles with special registration for disabled veterans under ORS 805.100 is a fee of \$15.

(22) The registration fee for manufactured structures is as provided in ORS 820.580.

(23) Subject to subsection (19) of this section, the registration

fee for motor vehicles registered as farm vehicles under ORS 805.300 is as follows based upon the registration weight given in the declaration of weight submitted under ORS 803.435:

Weight in Pounds		Fee
8,000	or less	\$ 20
8,001	to 10,000	30
10,001	to 12,000	35
12,001	to 14,000	45
14,001	to 16,000	50
16,001	to 18,000	60
18,001	to 20,000	65
20,001	to 22,000	75
22,001	to 24,000	80
24,001	to 26,000	90
26,001	to 28,000	95
28,001	to 30,000	105
30,001	to 32,000	110
32,001	to 34,000	120
34,001	to 36,000	125
36,001	to 38,000	135
38,001	to 40,000	140
40,001	to 42,000	150
42,001	to 44,000	155
44,001	to 46,000	165
46,001	to 48,000	170
48,001	to 50,000	180
50,001	to 52,000	185
52,001	to 54,000	190
54,001	to 56,000	200
56,001	to 58,000	210
58,001	to 60,000	215
60,001	to 62,000	220
62,001	to 64,000	230
64,001	to 66,000	240
66,001	to 68,000	245
68,001	to 70,000	250
70,001	to 72,000	260
72,001	to 74,000	265
74,001	to 76,000	275
76,001	to 78,000	280
78,001	to 80,000	290
80,001	to 82,000	295
82,001	to 84,000	305
84,001	to 86,000	310
86,001	to 88,000	320
88,001	to 90,000	325
90,001	to 92,000	335
92,001	to 94,000	340
94,001	to 96,000	350
96,001	to 98,000	355
98,001	to 100,000	365
100,001	to 102,000	370
102,001	to 104,000	380
104,001	to 105,500	385

(24) The registration fee for school vehicles registered under ORS 805.050 is \$7.50.

SECTION 46. Section 47 of this 1999 Act is added to and made a part of ORS chapter 803.

SECTION 47. Registration fees for commercial vehicles registered under the proportional registration provisions of ORS 826.009 may be paid quarterly. Authorization for quarterly payment does not affect the registration period specified in ORS 826.009.

SECTION 48. ORS 305.850 is amended to read:

305.850. (1) Notwithstanding any provision to the contrary in ORS 9.320 [and 305.610], the Director of the Department of Revenue may engage the services of a collection agency to collect any taxes, interest and penalties resulting from an assessment of taxes or additional taxes imposed by ORS chapters 118, 310, 314, 316, 317, 318, 320, 321, ORS 323.005 to 323.455 and 323.990 and the Tobacco Products Tax Act (ORS 323.500 to

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323.640) and any other tax laws administered by the Department of Revenue. The director may engage the services of a collection agency by entering into an agreement to pay reasonable charges on a contingent fee or other basis.

(2) The director shall cause to be collected, in the same manner as provided in subsection (1) of this section, assessments, taxes and penalties due under ORS chapter 656. All amounts collected pursuant to this subsection shall be credited as provided in ORS 293.250.

(3) The director may assign to the collection agency, for collection purposes only, any of the taxes, penalties, interest and moneys due the state.

(4) The collection agency may bring such action or take such proceedings, including but not limited to attachment and garnishment proceedings, as may be necessary.

SECTION 49. ORS 319.520 is amended to read:

319.520. As used in ORS 319.510 to 319.880, unless the context clearly indicates a different meaning:

(1) "Combined weight" means the total empty weight of all vehicles in a combination plus the total weight of the load carried on that combination of vehicles.

(2) "Delinquent" means having failed to pay a tax or penalty within the time provided by law.

(3) "Department" means the Department of Transportation.

(4) "Fuel" means any combustible gas, liquid or material of a kind used for the generation of power to propel a motor vehicle on the highways except motor vehicle fuel as defined in ORS 319.010 and diesel fuel.

(5) "Highway" means every way, thoroughfare and place, of whatever nature, open to the use of the public for the purpose of vehicular travel.

(6) "Light weight" means the weight of a vehicle when fully equipped for moving over the highway.

(7) "Motor vehicle" means every self-propelled vehicle operated on the highway, except an implement of husbandry used in agricultural operations and only incidentally operated or moved upon the highway.

(8) "Person" means any individual, firm, copartnership, joint venture, association, corporation, trust, receiver or any group or combination acting as a unit.

(9) "Seller" means a person who sells fuel to a user.

(10) "To sell fuel for use in a motor vehicle" means to deliver or place fuel for a price into a receptacle on a motor vehicle, from which receptacle the fuel is supplied to propel the motor vehicle.

(11) "To use fuel in a motor vehicle" means to receive into any receptacle on a motor vehicle, fuel to be consumed in propelling the motor vehicle on the highways of this state; and, if the fuel is received into the receptacle outside the taxing jurisdiction of the state, "to use fuel in a motor vehicle" means to consume in propelling the motor vehicle on the highways of this state.

SECTION 50. ORS 319.690 is amended to read:

319.690. (1) Except as provided in subsection (2) of this section and ORS 319.692, each user of fuel in a motor vehicle required to be licensed under ORS 319.550 shall, on or before the 20th day of each month, file with the Department of Transportation a report showing the amount of fuel used during the immediately preceding calendar month by the user and such other information as the department may require for the purposes of ORS 319.510 to 319.880. The reports shall be in the form prescribed by the department. Each report shall be accompanied by a remittance payable to the department for the amount of all the tax shown by the report to be due and payable. Any tax paid to a seller is a credit against the amount of tax otherwise due and payable to the state under ORS 319.510 to 319.880 [or 825.474, 825.476 and 825.480]. Also, when filing a monthly tax report, a user may, in lieu of claiming a refund, take a deduction or credit for the tax on any fuel which would otherwise be subject to refund under ORS 319.831 (1).

(2) Each user of fuel in a motor vehicle with a light weight of less than 8,000 pounds required to be licensed under ORS 319.550 may file an annual report of all fuel used upon Oregon highways. The report for each calendar year shall be filed on or before March 1 of the year following and shall be accompanied by

a remittance payable to the department of all the tax shown to be due and payable on the amount of fuel used.

SECTION 51. ORS 366.507 is amended to read:

366.507. The Department of Transportation shall use an amount equal to the moneys in the State Highway Fund that become available for its use from the increase in tax rates created by the amendments to ORS 319.020[,] and 319.530[, 825.476 and 825.480] by sections [1, 2 and 10 to 15] 1, 2, 12 and 13, chapter 209, Oregon Laws 1985, and an amount equal to one-third of the moneys in the State Highway Fund that become available for its use from any increase in tax rates created by the amendments to ORS 319.020[,] and 319.530[, 825.476 and 825.480] by sections [5, 6 and 8 to 15] 8, 9, 10, 11, 14 and 15, chapter 899, Oregon Laws 1987, and from any increase in tax rates that results from the provisions of sections 16 and 17, chapter 899, Oregon Laws 1987, exclusively to establish a state modernization program for highways. The program established under this section and the use of moneys in the program are subject to the following:

(1) The moneys may be used by the department to retire bonds that the department issues for the modernization program under bonding authority of the department.

(2) The intent of the modernization program is to accelerate improvements from the backlog of needs on the state highways and to fund modernization of highways and local roads to support economic development in Oregon. Projects both on and off the state highway system are eligible.

(3) Projects to be implemented by the modernization program shall be selected by the Oregon Transportation Commission. The criteria for selection of projects will be established after public hearings that allow citizens an opportunity to review the criteria.

(4) In developing criteria for selection of projects, the commission shall consider the following:

- (a) Projects be of significance to the state highway system.
- (b) Projects not be selected on the interstate highway system.
- (c) Projects be equitably distributed throughout Oregon.
- (d) Projects may be on county or city arterial roads connecting to or supporting a state highway.
- (e) Priority be given to projects which encourage economic development where:

(A) There is commitment by private industry to construct a facility.

(B) There is support from other state agencies.

(f) Priority be given where there is local government or private sector financial participation, or both, in the improvement in addition to improvements adjacent to the project.

(g) Priority be given where there is strong local support.

SECTION 52. ORS 366.508 is amended to read:

366.508. (1) The Legislative Assembly finds that:

(a) Estimated highway, road and street revenues from current sources will not adequately meet the need for continued development of a statewide road and bridge system that is economically efficient, provides accessibility to and from commercial, agricultural, industrial, tourist and recreational facilities and enhances the highway safety, environmental quality and land use goals of this state;

(b) Responsibility for the cost of the highway, road and street system should be proportional and should be based on the number and types of vehicles that use the system and on the frequency of their use; and

(c) Expansion, modernization, maintenance, repair, reconstruction, increased capacity and enhanced safety on all roads and bridges is crucial to the economic revitalization of Oregon.

(2) The Legislative Assembly declares that the purpose of this section and ORS 319.020, 319.530, 366.507, 366.524, 366.542[,] and 366.790[, 825.476 and 825.480] and section 2 of this 1999 Act is:

(a) To enhance the revenue base for the state, counties and cities for continued development and maintenance of the road and bridge system; and

(b) To enhance the revitalization of this state's economy by implementing a long-term plan for the state, counties and cities that establishes priorities for road and bridge improvements.

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NOTE: Section 53 was deleted by amendment. Subsequent sections were not renumbered.

SECTION 54. ORS 367.605 is amended to read:

367.605. This section establishes the moneys available for use or pledge for purposes of issuing bonds under ORS 367.615 or 367.670. Such moneys are established as provided under the following:

(1) Except as provided in subsection (2) of this section, moneys, once deposited in the highway fund established under ORS 366.505, from all of the following sources are subject to the use or pledge described by this section:

- (a) Moneys credited to the highway fund under ORS 153.630.
- (b) Moneys from the tax on [motor carriers] **diesel fuel** imposed under [ORS 825.474] **section 2 of this 1999 Act.**
- (c) Moneys from the tax on motor vehicle fuel imposed under ORS 319.020.
- (d) Moneys from the tax on fuel used in motor vehicles imposed under ORS 319.530.
- (e) Moneys described under ORS 803.090 from the titling of vehicles.
- (f) Moneys described under ORS 803.420 from the registration of vehicles.
- (g) Moneys described under ORS 807.370 relating to the issuance of driver licenses and driver permits.

(2) Moneys described under subsection (1) of this section do not include any moneys described in the following:

- (a) Moneys provided for appropriations to counties under ORS 366.525 to 366.540.
- (b) Moneys provided for appropriations to cities under ORS 366.785 to 366.820.
- (c) Moneys in the account established under ORS 366.512 for parks and recreation.

SECTION 55. ORS 376.390 is amended to read:

376.390. Nothing in ORS 376.305 to 376.390 relieves the forest road contractor or agents or subcontractors of the forest road contractor from payment of any taxes or fees prescribed by law, *except that, with respect to a motor vehicle operated upon a contract forest road by a forest road contractor, or agent or subcontractor of the forest road contractor, the road tax mileage fees prescribed by ORS 825.474, 825.476, 825.480 and 825.484 shall be assessed upon the declared combined weight of the motor vehicle or 76,000 pounds, whichever is less.*

SECTION 56. ORS 802.010 is amended to read:

802.010. (1) The Department of Transportation shall perform all of the duties, functions and powers with respect to the following:

- (a) The administration of the laws relating to the motor vehicle fuel license tax, aircraft fuel license tax, [and] use fuel license tax including ORS chapter 319, **and diesel fuel tax under sections 1 to 41 of this 1999 Act.**
- (b) The administration of the laws relating to motor vehicle registration and titling and the issuance of certificates to vehicle dealers and vehicle wreckers including but not limited to the administration of the vehicle code.
- (c) The administration of the laws relating to driving privileges granted under licenses and permits and under the vehicle code.
- (d) The administration of the laws relating to operation of vehicles on highways and of vehicle size, weight and use limits under the vehicle code.
- (e) The administration of ORS 820.130 and 820.140.
- (f) The administration of the provisions relating to proof of financial responsibility and future responsibility filings.

(2) The Director of Transportation shall act as a reciprocity officer for the purposes of ORS 802.500 and 802.520.

(3) The director shall have the authority to execute or make such arrangements, agreements or declarations to carry out the provisions of ORS 802.500 and 802.520. The director shall receive no additional compensation for service performed under this [paragraph] **subsection** but shall be allowed actual and necessary expenses incurred in the performance of the duties to be paid from the account of the department.

SECTION 57. ORS 802.130 is amended to read:

802.130. The All-Terrain Vehicle Account is established as a separate account in the State Highway Fund, to be accounted for

separately. After deduction of expenses of collection, transfer and administration, including the expenses of establishment and operation of Class I all-terrain vehicle safety education courses under ORS 821.180 and Class III all-terrain vehicle safety education courses under ORS 821.182, the following moneys shall be transferred to the account:

- (1) Fees collected by the Department of Transportation under ORS 821.060 for issuance of title for Class I all-terrain vehicles.
- (2) Fees collected by the department under ORS 821.320 for registration of Class I all-terrain vehicles.
- (3) Fees collected by the department from participants in the Class I all-terrain vehicle safety education course under ORS 821.180 and participants in the Class III all-terrain vehicle safety education course under ORS 821.182.
- (4) That portion of the amount paid to the department as motor vehicle fuel tax under ORS 319.020 and 319.530 **and diesel fuel tax under section 2 of this 1999 Act** that is determined by the department to be tax on fuel used by Class I, Class II and Class III all-terrain vehicles in off-highway operation and that is not refunded. The department shall determine the amount of money to be transferred under this subsection at least once each four years.
- (5) Fees collected by the department under ORS 821.145 (2) for issuance and renewal of Class II or Class III all-terrain vehicle off-road operating permits.

SECTION 58. ORS 802.500 is amended to read:

802.500. The Director of Transportation may enter into agreements with the duly authorized representatives of any jurisdiction that issues registration to establish reciprocal privileges or registration exemptions for vehicles as described in this section. All of the following apply to an agreement established under the authority granted by this section:

(1) An agreement may establish any of the following benefits, privileges and exemptions with respect to the operation of commercial or noncommercial vehicles in this state:

- (a) For purposes of ORS 803.305 exemptions from registration and payment, wholly or partially, of any vehicle or registration fees.
 - (b) Privileges relating to vehicles used by disabled persons.
 - (c) Privileges relating to vehicle parking.
 - (d) Privileges relating to vehicle dealers.
 - (e) Privileges, exemptions or benefits relating to farm vehicles or implements of husbandry.
 - (f) Privileges relating to persons commercially transporting vehicles.
 - (g) Any similar privileges, benefits or exemptions relating to the operation of vehicles.
 - (h) Privileges, benefits or exemptions relating to the registration of fleets of vehicles.
- (2) An agreement shall only grant the privileges, benefits and exemptions to a vehicle or the owner of a vehicle if the vehicle is any of the following:
 - (a) Registered in the jurisdiction where the person registering the vehicle has a legal residence.
 - (b) A commercial vehicle registered in a jurisdiction where the commercial enterprise in which the vehicle is used has a place of business. To qualify under this paragraph the vehicle must be assigned to the place of business and the place of business must be the place from which or in which the vehicle is most frequently dispatched, garaged, serviced, maintained, operated or otherwise controlled.
 - (c) A commercial vehicle registered in a jurisdiction where the vehicle has been registered because of an agreement between two jurisdictions or a declaration issued by any jurisdiction.

(3) An agreement shall retain the right of the Department of Transportation to make the final determination as to the proper place of registration of a vehicle when there is a dispute or doubt concerning the proper place of registration. An agreement shall retain the right of the department to confer with the departments of other jurisdictions affected when making a determination under this subsection.

(4) An agreement shall not provide for any benefit, exemption or privilege with respect to fuel taxes, use fuel taxes, **diesel fuel**