

**TESTIMONY ON HB 2287 WITH -1 AMENDMENTS
BEFORE THE HOUSE JUDICIARY COMMITTEE**

APRIL 24, 2009

PRESENTED BY: KINGSLEY CLICK, OFFICE OF THE STATE COURT ADMINISTRATOR

The -1 amendments replace the original bill with a set of changes that would provide revenue increases through court service charges from new fees; increased or expanded fees; creation of new dedicated accounts for specific court purposes; increases in revenues to the general fund (used to fund the courts and others); and increases in revenues to other state, local, and statutorily dedicated accounts, including those of the Judicial Department.

The intent is that the revenue stream in the -1 amendments be considered to support the continued operations of the state court system and, subsequent to any action by this committee, that this bill as amended be forwarded to the Joint Ways and Means Committee for the budget. The Chief Justice has presented these and other revenue concepts to the legislative leadership and co- chairs of the judiciary committees as a means to help provide solutions to the severe state general fund crisis and to help prevent destabilizing and dismantling the state court system as a result of that crisis.

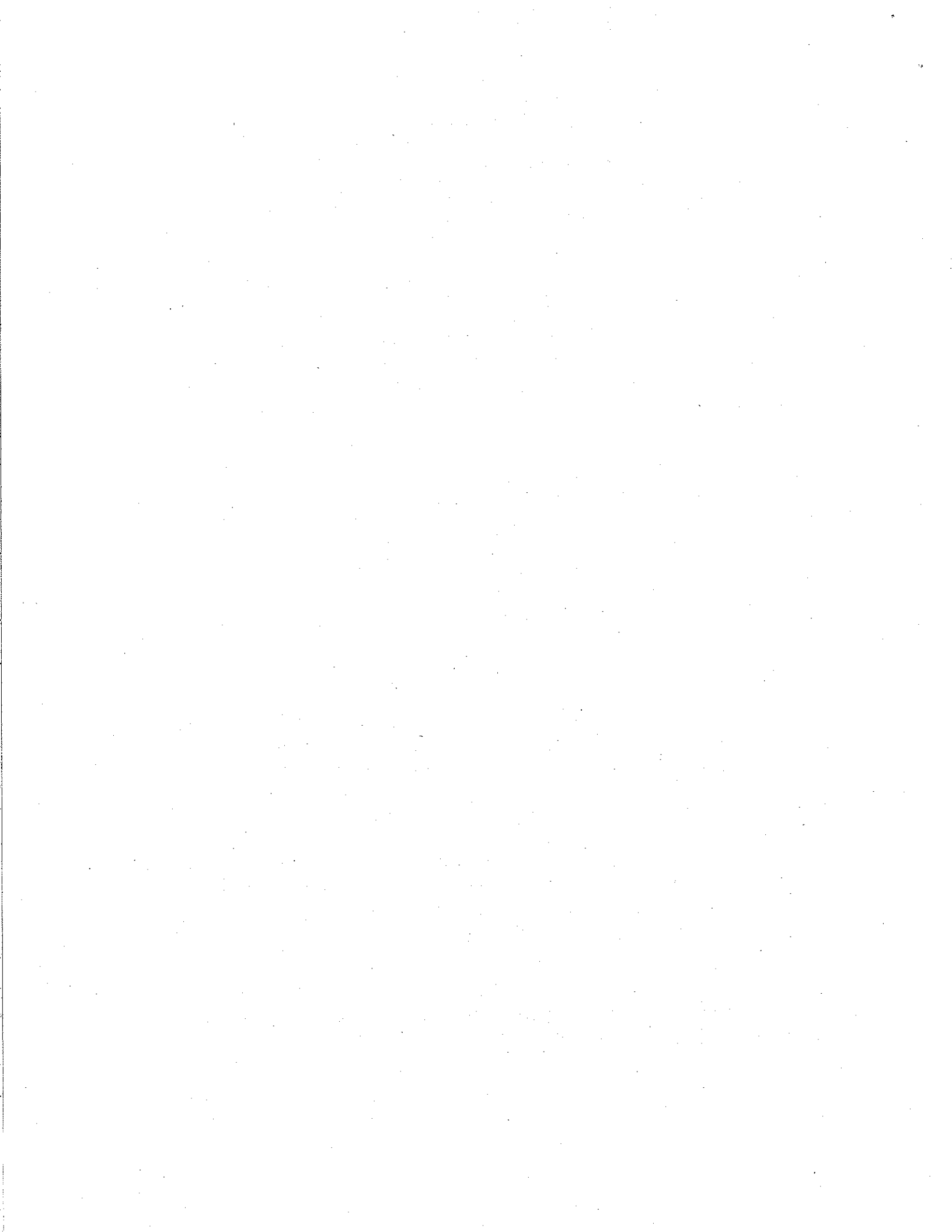
The Chief Justice, Paul J. De Muniz, has presented the revenue and budget policy objective as the following:

A judicial branch of government that is able to carry out its core constitutional and statutory duties in an effective manner statewide, and whose resources are balanced with the functions of federal, state, and local government as they perform their required functions.

This means courts have the resources that allow them to be able to

- Be open and accessible every business day,
- Process cases in a reasonable timeline to maintain public safety, protect children and families, and establish and protect property rights that serve as the basis for economic transactions by businesses and consumers, and
- Have sufficient administrative infrastructure to support the core functions and meet legal requirements for state entities.

The purpose of these amendments is to provide revenue to help accomplish that objective. Attached is a summary of the fee changes, section-by-section chart, and a description of each change.



HB 2287 – Fee Chart (in Section Order)

-1 Amendments	(List #)	Description	Fee	Account
Sec. 1, 2, 12	(B12)	Payment Plans	\$200 Cap	From GF to OJD Collections
Sec. 3, 4	(B5)	Court of Appeals Mediation	\$85	COA Mediation
Sec. 4, 5	(A10)	Additional Named Parties Fee	\$107	JSF
Sec. 5	(B4)	Civil Complaint/Answer	\$117	GF
Sec. 6	(B6a)	Court Trial Fee	\$150 - \$250	GF
Sec. 7	(B6b)	Court Hearing Fee	\$100 - \$175	GF
Sec. 8	(B1)	Name Change	\$100	GF
Sec. 9	(B8)	Small Claims Filing	\$50 - \$100	GF
Sec. 9	(B9)	Small Claims/Hearing Demand	\$50 - \$100	GF
Sec. 10	(B7)	FED Complaint Filing	\$25	GF
Sec. 11	(B11)	Security Release (15%)	No Cap	CFAA/Others
Sec. 13	(B10a)	Tax Court Filing – Magistrate Division	\$75	GF
Sec. 13	(B10b)	Tax Court Filing – Regular Division	\$150	GF
Sec. 14	(B2)	Writ of Garnishment	\$25	GF
Sec. 14	(B3a)	Notice of Restitution	\$15	GF
Sec. 14	(B3b)	Writ of Execution	\$35	GF
Sec. 15	(C2)	Judicial Stabilization Account	Sec. 16, 17, 18; and new ORS 18.235 (1), 21.010 (2), 21.110 (1)(b), 21.310 (3)(b), 135.921 (3)(b), 137.225 (2)(c), 137.540 (7), 419A.262 (1), 813.240 (2)(b)	JSF
Sec. 16	(A7)	Ex Parte Motion Fee	\$10	JSF
Sec. 17	(A8)	Settlement Conference Fee	\$50 - \$100 Mandatory & Nonmandatory	JSF
Sec. 18	(A9)	Motion for Continuance	\$50	JSF
Sec. 19	(A3)	Civil Satisfaction Motion Fee	\$50	JSF
Sec. 20, 21	(A2)	Annual Accounting Fee	\$100 - \$300 Based on Value	JSF
Sec. 22, 23	(A6)	Diversion Administration Fee	\$100	JSF
Sec. 24, 25	(A1)	Expunction Fees	\$100	JSF
Sec. 26	(A4)	Court Bench Probation	\$100	JSF
Sec. 26	(A5)	PV Violation Assessment	\$50	JSF
Sec. 27	(C1)	State Court Technology Account	Sec. 28 and new ORS 13.295(5)	SCTF
Sec. 28, 29, 30, 31	(A11)	State Court Automation Assessment	\$10	SCTA

State Court Technology Account (SCTA)
 Judicial Stabilization Account (JSA)
 General Fund (GF)

HB 2287 – Fee Chart (in Description Order)

Description	Fee	Account	-1 Amendments
A. New Fees			
1. Expunction Fees	\$100	JSF	Sec. 24, 25
2. Annual Accounting Fee	\$100 - \$300 Based on Value	JSF	Sec. 20, 21
3. Civil Satisfaction Motion Fee	\$50	JSF	Sec. 19
4. Court Bench Probation	\$100	JSF	Sec. 26
5. PV Violation Assessment	\$50	JSF	Sec. 26
6. Diversion Administration Fee	\$100	JSF	Sec. 22, 23
7. Ex Parte Motion Fee	\$10	JSF	Sec. 16
8. Settlement Conference Fee	\$50 - \$100 Mandatory & Nonmandatory	JSF	Sec. 17
9. Motion for Continuance	\$50	JSF	Sec.18
10. Additional Named Parties Fee	\$107	JSF	Sec. 4, 5
11. State Court Automation Assessment	\$10	SCTA	Sec. 28, 29, 30, 31
B. Current Fees Increase			
1. Name Change	\$100	GF	Sec. 8
2. Writ of Garnishment	\$25	GF	Sec. 14
3a. Notice of Restitution	\$15	GF	Sec. 14
3b. Writ of Execution	\$35	GF	Sec. 14
4. Civil Complaint/Answer	\$117	GF	Sec. 5
5. Court of Appeals Mediation	\$85	COA Mediation	Sec. 3, 4
6a. Court Trial Fee	\$150 - \$250	GF	Sec. 6
6b. Court Hearing Fee	\$100 - \$175	GF	Sec. 7
7. FED Complaint Filing	\$25	GF	Sec. 10
8. Small Claims Filing	\$50 - \$100	GF	Sec. 9
9. Small Claims/Hearing Demand	\$50 - \$100	GF	Sec. 9
10. Tax Court Filing – a. Magistrate Division	\$75	GF	Sec. 13
10. Tax Court Filing – b. Regular Division	\$150	GF	Sec. 13
11. Security Release (15%)	No Cap	CFAA/Others	Sec. 11
12. Payment Plans	\$200 Cap	From GF to OJD Collections	Sec. 1, 2, 12
C. New Accounts			
1. State Court Technology Account	Sec. 28 and new ORS 13.295(5)	SCTF	Sec. 27
2. Judicial Stabilization Account	Sec. 16, 17, 18; and new ORS 18.235 (1), 21.010 (2), 21.110 (1)(b), 21.310 (3)(b), 135.921 (3)(b), 137.225 (2)(c), 137.540 (7), 419A.262 (1), 813.240 (2)(b)	JSF	Sec. 15

State Court Technology Account (SCTA)
Judicial Stabilization Account (JSA)
General Fund (GF)

Oregon Judicial Department Revenue Amendments for HB 2287 (-1 Amendments)

A. New Fees

The following amendments add new statutory fees, assessments, and accounts. The effective date, unless otherwise noted, is January 1, 2010. Revenues are estimated at \$5.4 million for a newly established OJD Technology Account and \$15.7 million for a Judicial Stabilization Fund.

1. Expunction Filing Fee (Sections 24 and 25)

Amends ORS 137.225 and ORS 419.262A. Establishes circuit court filing fee for application for Order of Expunction (Expunging) of Records in both adult or juvenile cases - \$100.

2. Probate/Conservatorship Annual Accounting Fee (Sections 20 and 21)

Amends ORS 21.310 and ORS 125.060. Establishes an annual accounting fee charge for three levels of value of the estate monitored by circuit court and separately for conservatorships. Provides that the circuit court shall charge an annual accounting fee for an estate admitted to probate: \$100 fee for an estate value not more than \$500,000; \$200 fee for an estate value \$501,000 - \$1,000,000; and \$300 fee for an estate value \$1,000,001 and above.

3. Filing Fee for Motion for Court Order and Certificate of Satisfaction of Money Award in Civil Cases (Section 19)

Establishes a \$50 filing fee for motions filed under ORS 18.235(2) by a judgment debtor, or a person with an interest in real property against which a judgment lien exists, may move the court for an order declaring that a money award has been satisfied or for a determination of the amount necessary to satisfy the money award, when the person making the motion cannot otherwise obtain a satisfaction document from a judgment creditor. Fee is same as that for other motions.

4. Court Bench Probation Annual Monitoring Fee (Section 26)

Amends ORS 137.540. Establishes a \$100 fee for the courts that now have to supervise defendants who are placed on 'bench' probation due to lack of adequate levels of community or state probation officers to handle these cases. Provides, that when a judge sentences a defendant convicted of a misdemeanor to probation, that the judge may place the defendant under the court's supervision. When the defendant is to be under the court's supervision, then the court shall order the defendant to pay \$100 as the fee for supervision by the court.

5. Probation Violation Assessment (Section 26)

Amends ORS 137.540. Establishes a \$50 assessment to be added to judgment of probation violation finding. Provides that when a defendant is found by a court to be in violation of the conditions of probation, that a \$50 assessment be added as an obligation for the defendant to pay as part of the judgment.

6. Diversion Program Administration Fee (Sections 22 and 23)

Amends ORS 813.240 and ORS 135.921, respectively to establish a \$100 fee for the court's administrative processing of statutory DUII and Marijuana less than an ounce diversion cases.

7. Ex Parte Matters Fee (Section 16)

New Section. Establishes a \$10 fee for filing "ex parte" orders and judgments for judge signature in civil and domestic relations cases. (Washington has a \$20 ex parte fee and California has a \$40 ex parte fee). The ex parte order or judgment must include a statement that the opposing lawyer or party, if not represented by a lawyer, was provided notice of the filing or submittal.

8. Settlement Conference Fee (Section 17)

New Section. Establishes a \$50 and \$100 fee, respectively, for a mandatory and nonmandatory judicial settlement conference in noncriminal matters: \$50 for a judicial settlement conference mandated by court rule or by the court or \$100 for a judicial settlement conference requested by one or more of the parties.

9. Motion Fee for Continuance or Extension of Time (Section 18)

New Section. Establishes a \$50 motion fee for filing request for continuance of a noncriminal case at the circuit court or a motion for extension of time at the appellate court level.

10. Additional Named Party Fee for Parties Filing Jointly (Sections 4 and 5)

Amends ORS 21.110 (circuit) and ORS 21.010 (appeals). Establishes the requirement that each named party in a filing or response in a circuit or appellate court in a civil action or appeal has a separate \$107 'party' fee for each additional named party filing jointly and named in the complaint as a plaintiff, appellant, or moving party, and an additional \$107 for each additional named party appearing jointly as a defendant or respondent in the answer or appearance filed by the respondent.

11. State Court Automation Assessment (Sections 28, 29, 30, and 31)

Establishes a \$10 filing fee assessment on nonoffense cases (ORS Ch. 21) and a \$10 assessment on convictions in offense cases (crimes and violations) (ORS 137.295). Provides that the state court automation assessment shall be deposited into the State Court Technology Account.

12. State Court Technology Account (Section 27)

Establishes a new statutory account for funding Oregon Judicial Department technology support with item 11 revenues.

13. State Judicial Stabilization Fund (Section 15)

Establishes a new statutory account for funding services of operation of the state courts with items 1-10 revenues.

B. Increase of Current Fees and Authority

The following amendments are increases to existing fees or statutory authority. Unless otherwise indicated, all changes and fee increases are effective January 1, 2010, and raise approximately \$14.2 million. Unless otherwise indicated, revenue from the increases accrue to the General Fund/CFAA and OJD Collections Account to offset those costs.

1. Name Change Filing Fee (\$100) - ORS 21.114 (Section 8)

Amends ORS 21.114 for the name change filing fee and appearance fee from \$39 to \$100.

2. Writ of Garnishment (\$25) - ORS 21.325 (Section 14)

Amends ORS 21.325(4) and separates item out for the filing fee of a writ of garnishment from \$12 to \$25.

3. Notice of Restitution (\$15); Writ of Execution (\$35) - ORS 21.325 (Section 14)

Amends the fees for the notice of restitution and the writ of execution related to FED filings. Amend ORS 21.325(7) from \$3 fee to \$15 for issuing a notice of restitution and amend ORS 21.325(4) from \$12 fee to \$35 for issuing the writ of execution of premises. This proposal is to increase these fees so the combined total is \$50.

4. Civil Matters Complaint/Answer Fees (\$117) - ORS 21.110 (Section 5)

Amends ORS 21.110(1) to increase the civil complaint filing fee from \$107 to \$117 and for civil answer fees, from \$107 to \$117.

5. COA Mediation Fees (Sections 3 and 4) ORS 2.565 (\$85); ORS 21.010 (\$85)

Amends the amounts in ORS 2.565 from \$40 to \$85 for the petitioner filing fee for mediation and from \$24 to \$85 for the respondent mediation filing fee. Amend the filing and response fees in ORS 21.010 (1) from \$154 to \$239. This is a continuation of the dedicated funds for the Court of Appeals mediation program.

6. Court Trial/Court Hearing Fees (ORS 21.270 and ORS 21.275) (Sections 6 and 7)

Court Trial Fee: Nonjury (\$150); 6-person (\$175); 12-person (\$250)

Hearing Fee: Partial day - 3 hours or less (\$100); Full day - More than 3 hours (\$175)

As noted, amends ORS 21.270, so changes \$77 to \$150 per day trial fee (nonjury); \$110 to \$175 per day jury trial fee (6-person jury); and from \$193 to \$250 per day jury trial fee (12-person jury). As noted, amends ORS 21.275(3) to change the daily fee for a hearing period of not more than 3 hours from \$33 to \$100 and for a hearing period of more than 3 hours from \$77 to \$175.

7. FED Complaint Filing Fee (\$25) - ORS 105.130 (Section 10)

Amends ORS 105.130(1)(a) for a FED residential filing fee increase from \$13 to \$25.

8. Small Claims Filings Claim is \$1500 or Less (\$50); greater than \$1500 (\$100); and

9. Defendant Deny Claim/Demand Hearing (\$50/\$100) (Section 9)

For 8 and 9: Amends ORS 46.570 for small claims complaints \$1500 or under, filing fee from \$26 to \$50 and from \$55 to \$100 for claims greater than \$1500. When defendant denies the claim and demands a hearing, changes the filing fee from \$24 to \$50 for claim \$1500 or less, and from \$50 to \$100 when claim is greater than \$1500.

10. Tax Court Filing Fees – ORS 305.490: Magistrate Division (\$75.00); Regular Division (\$150.00) (Section 13)

Amends ORS 305.490 (1)(a) tax court filing fee for the magistrate division from \$25 to \$75 and amends ORS 305.490 (1)(b) and (1)(c) tax court filing fees for the regular tax division from \$50 to \$150.

11. Security Release Fee Ceiling (15% w/o cap) – ORS 135.265 (Section 11)

By law, OJD currently retains 15%, up to a \$200 limit, of security posted for security release costs when the security deposit is equal to 10% of the security amount ordered. Amends ORS 125.265(2) to delete the \$200 cap. The fee amount distributes to the Criminal Fine and Assessment Account (CFAA) and other entities, including payment of other outstanding judgments.

12. Ceiling on the Administration Fee for Payment Plans Change Account Recipient (ORS 1.202) (Sections 1 and 2)

Amends ORS 1.202(1) to increase the allowable fee ceiling from \$100 to \$200 for the administration of a payment plan. Amend ORS 1.202(1) and (2) as noted below to change the recipient from General Fund to the OJD Collections Fund to reimburse administration of these plans. Conforms ORS 1.204.

13. Related Changes to Statutes to Provide for Improved Collections Efforts (ORS 137.293) (Section 12)

To provide for collections received through 'tax intercept' programs, amends ORS 137.290.