

TITLE 28

PUBLIC FINANCIAL ADMINISTRATION

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292. Salaries and Expenses of State Officers and Employees
293. Administration of Public Funds
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Chapter 291

2017 EDITION

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GENERAL PROVISIONS

291.001 Use of accounting terms; determination of appropriate methods of transfer; establishment of funds and accounts. (1) As used in the statute laws of this state, unless the context or specially applicable definition requires otherwise, the words “subaccounts,” “accounts” or “funds” are used interchangeably, where such use is consistent with state accounting principles and is accepted for use by the State Treasurer.

(2) Unless the context or a specific provision of law provides otherwise, when a law of this state requires that a payment or transfer of moneys be made by warrant, check or electronic funds transfer the payment or transfer may be made by warrant, check, electronic funds transfer or an accounting entry in the appropriate records of any affected state agency. The Oregon Department of Administrative Services shall determine which method of payment or transfer is most appropriate, taking into consideration the established state banking, funds transfer and accounting practices at the time of the payment or transfer.

(3) The State Treasurer, in consultation with the Oregon Department of Administrative Services, may establish or designate, whenever necessary or convenient to the carrying out or administration of the accounting, budget preparation, cash management, financial management, financial reporting or similar laws of this state, subaccounts, accounts and funds in addition to or within the subaccounts, accounts and funds created by the Oregon Constitution and statutes. Subaccounts, accounts and funds established or designated under this subsection shall be administered as prescribed by written directive or policy issued or approved by the State Treasurer. The authority granted by this subsection is in addition to, and not in limitation of, the authority granted by ORS 293.445 and 293.447. [1993 c.73 §5; 1997 c.122 §4; 2003 c.17 §1]

291.002 Definitions. As used in ORS 291.001 to 291.034, 291.201 to 291.222, 291.232 to 291.260, 291.261, 291.307 and 291.990, unless the context requires otherwise:

(1) “Classification of expenditures” means the categories of expenses for the purpose of budget-making and accounting that are provided in ORS 291.216 (6)(a).

(2) “Dedicated fund” means a fund in the State Treasury, or a separate account or fund in the General Fund in the State Treasury, that by law is dedicated, appropriated or set aside for a limited object or purpose, but “dedicated fund” does not include a revolving fund or a trust fund.

(3) “Department” means the Oregon Department of Administrative Services.

(4) “Director” means the Director of the Oregon Department of Administrative Services.

(5) “Legislatively adopted budget” means the budget enacted by the Legislative Assembly during an odd-numbered year regular session for the biennium beginning July 1 of the year in which the regular session begins.

(6) “Legislatively approved budget” means the legislatively adopted budget as modified by the Emergency Board meeting in an interim period or by the Legislative Assembly meeting in special session or in an even-numbered year regular session.

(7) “Revolving fund” means a fund in the State Treasury, established by law, from which is paid the cost of goods or services furnished to or by a state agency, and which is replenished through charges made for such goods or services or through transfers from other accounts or funds.

(8) “State agency” or “agency” means every state officer, board, commission, department, institution, branch or agency of the state government, whose costs are paid wholly or in part from funds held in the State Treasury, except:

(a) The Legislative Assembly, the courts and their officers and committees;

(b) The Public Defense Services Commission; and

(c) The Secretary of State and the State Treasurer in the performance of the duties of their constitutional offices.

(9) “State officer” means any elected or appointed state officer, including members of boards and commissions, except the members and officers of the Legislative Assembly, the courts, the Secretary of State and the State Treasurer in the performance of the duties of their constitutional offices and the members of the Public Defense Services Commission.

(10) “Trust fund” means a fund in the State Treasury in which designated persons or classes of persons have a vested beneficial interest or equitable ownership, or which was created or established by a gift, grant, contribution, devise or bequest that limits the use of the fund to designated objects or purposes. [Amended by 1967 c.419 §2; 2003 c.449 §21; 2003 c.734 §13; 2005 c.837 §8; 2007 c.217 §10; 2011 c.545 §18; 2015 c.767 §89; 2016 c.117 §7]

291.003 Federal laws and rules govern use of federal funds; exceptions. Notwithstanding any provision of ORS 291.001 to 291.034, 291.201 to 291.222, 291.232 to 291.260, 291.261, 291.307 and 291.990, but subject to any applicable judgment or settlement agree-

ment, in all cases where federal funds are involved, the federal laws, rules and regulations applicable to the federal funds shall govern. [Amended by 1967 c.419 §3; 2003 c.734 §14; 2009 c.821 §24]

291.004 [Repealed by 1967 c.419 §68]

291.005 [1967 c.419 §5; 1969 c.80 §3; renumbered 184.325]

291.006 [Repealed by 1967 c.419 §68]

291.007 [1967 c.419 §6; 1969 c.80 §2; renumbered 184.315]

291.008 [Repealed by 1967 c.419 §68]

291.009 [1967 c.419 §7; 1969 c.80 §4; renumbered 184.335]

291.010 [Amended by 1961 c.448 §18; repealed by 1967 c.419 §68]

FISCAL DUTIES OF DEPARTMENT

291.011 Blanket fidelity bonds for state officers and personnel. (1) The Director of the Oregon Department of Administrative Services may require a fidelity bond of any officer, employee or agent of the department or of any other state officer, employee or agent who has charge of, handles or has access to any money or property belonging to the state or in which the state may have an interest and who is not otherwise required by law to give a fidelity bond. The amounts of the bonds shall be fixed by the director, except as otherwise provided by law, and the sureties shall be approved by the director. The premium on the bond of any officer, employee or agent shall be paid by the state agency that employs the officer, employee or agent.

(2) The Oregon Department of Administrative Services may procure or provide and may administer a blanket bond covering any or all officers and employees of the state. The bond shall contain such coverages and shall be in such amounts as the Oregon Department of Administrative Services deems adequate to protect the interest of the state. Procurement of the bond to cover any officer or employee of the state shall constitute compliance with any statute requiring that officer or employee to be bonded up to the monetary limit of the blanket bond which the Oregon Department of Administrative Services purchases or provides. The coverage and insuring amount applicable in such bond to any officer or employee of the state shall be at least equal to that required by statute. The cost of the premium on the bond shall be charged to the various state agencies employing the state officers and employees covered by the bond.

(3) The provisions of this section are considered to satisfy any provision of law requiring individual fidelity bonds for elected officers if the level of coverage of the blanket

fidelity bond is at least equal to the individual statutory requirements.

(4) As used in this section:

(a) "Officers and employees of the state" includes all elected and appointed officers and employees of the State of Oregon and all persons appointed by a state agency on a temporary or intermittent basis to act for the state in particular matters where such persons have charge of, handle or have access to any money or property belonging to the state or in which the state may have an interest.

(b) "State agency" means every state officer, board, commission, department, institution, branch or agency of the state government and includes the Legislative Assembly and any of its statutory standing, special or interim committees, the courts and their officers and committees, all constitutional state officers and the Public Defense Services Commission. [1967 c.419 §8; 1969 c.80 §5; 1971 c.54 §1; 1975 c.194 §1; 1981 c.129 §1; 1991 c.219 §1; 2003 c.449 §37]

291.012 [Amended by 1955 c.58 §1; repealed by 1967 c.419 §68]

291.013 [1967 c.419 §9; renumbered 184.340]

291.014 [Repealed by 1967 c.419 §68]

291.015 Fiscal responsibilities of department; delegation of fiscal functions. (1) The Oregon Department of Administrative Services, under the direction of the Governor and as provided by law, is responsible generally for the administration and coordination of internal accounting and other affairs, controls, procedures and services of a fiscal nature of the state government and agencies thereof.

(2) Except as otherwise provided by law, the department may authorize subject to its control the decentralized performance by state agencies of fiscal functions of the department. [1967 c.419 §10]

291.016 Making administrative and organizational surveys. The Oregon Department of Administrative Services, or the State Chief Information Officer for purposes related to information and telecommunications technology, may make or cause to be made administrative and organizational surveys of the state agencies for the purpose of determining the feasibility of improving the administration of the state government by eliminating unnecessary positions and activities, improving internal operating forms, avoiding duplication, and increasing efficiency and economical operation. [Amended by 2015 c.807 §37]

291.018 Conducting research; requiring administrative reports from agencies. The Oregon Department of Administrative Services, or the State Chief Information Officer

for purposes related to information and telecommunications technology, shall conduct research for use in administrative planning, policy review and organization and methods improvement. Periodic administrative reports to the department, the State Chief Information Officer and the Governor that are designed to outline factually the quantitative and qualitative aspects of work performance by operating units may be required of state agencies. The department and the State Chief Information Officer may require state agencies to submit information in reports that will permit sound analysis and will provide the basis for detecting administrative weaknesses, correcting performance difficulties and permitting better planning and management of state services. [Amended by 2015 c.807 §38]

291.020 [Renumbered 291.028]

291.021 [1973 c.84 §2; 1981 c.766 §2; 1987 c.538 §2; repealed by 1997 c.802 §22]

291.022 [Formerly 291.558; repealed by 1967 c.454 §119]

291.024 [Formerly 291.560; repealed by 1967 c.454 §119]

291.026 Examining agency records and financial affairs. For the purposes of carrying out its duties, powers and functions, the Oregon Department of Administrative Services may examine the records, files, documents, accounts and financial affairs of any state agency, and shall have the right of access for that purpose. During business hours the department may examine the accounts of any state agency in any depository which has state funds in its custody. [Formerly 291.562]

291.028 Submitting suggestions to Governor for improvement of state governmental administration. The Oregon Department of Administrative Services, upon the basis of its research and reports received, shall submit, from time to time, for the Governor's consideration and appropriate action thereupon, suggestions for the development of interagency policies consistent with the executive policies of the Governor and for the improvement of operating methods and procedures and better personnel utilization and for the improvement of work performance and reduction of costs in state government activities. [Formerly 291.020]

291.030 "Agency" defined for ORS 291.032 and 291.034. As used in ORS 291.032 and 291.034, "state agency" or "agency" includes the Legislative Assembly, at its option, or any of its statutory, standing, special or interim committees, at the option of such committee, the courts and their officers and committees and the constitutional state officers, at their option, and the Public Defense Services Commission, at the option of the commission. [1965 c.365 §1; 2003 c.449 §38]

291.032 Providing technical services involving management and organization.

The Oregon Department of Administrative Services, or the State Chief Information Officer for purposes related to information and telecommunications technology, may provide technical services to state agencies for management improvement development and the development of economies in the organization and administration of state agencies. The technical services may include consulting studies in work simplification, work measurement, equipment utilization and other management improvement concepts. The department or the State Chief Information Officer shall determine and charge the cost of the technical services, or portions of the technical services, to the state agency served. The state agency shall pay the cost to the department or the State Chief Information Officer, as appropriate, in the same manner that the state agency pays other claims against the state agency. The State Chief Information Officer shall deposit all moneys that the State Chief Information Officer receives from state agencies for services under this section into the State Information Technology Operating Fund. [1965 c.365 §3; 2015 c.807 §39]

291.034 Providing technical services involving data processing.

The State Chief Information Officer may provide technical services to state agencies for data processing systems development and developing data processing methods and applications in a manner that is consistent with the State Chief Information Officer's rules, policies and standards. The technical services may include consulting and programming services and assistance in locating electronic data processing installations. The State Chief Information Officer shall determine and charge the cost of the technical services, or portions of the technical services, to the state agency that the State Chief Information Officer serves. The state agency shall pay the cost to the State Chief Information Officer in the same manner that the state agency pays other claims against the state agency. The State Chief Information Officer shall deposit all moneys that the State Chief Information Officer receives from state agencies for services under this section into the State Information Technology Operating Fund. [1965 c.365 §4; 2015 c.807 §40]

291.035 [2014 c.77 §1; 2015 c.167 §5; 2015 c.243 §8; 2015 c.807 §46; 2017 c.440 §14; 2017 c.512 §1; renumbered 276A.223 in 2017]

291.036 [1967 c.419 §37; 1969 c.80 §6; 1973 c.159 §1; repealed by 1993 c.500 §2a]

291.037 [1991 c.531 §1; 2014 c.102 §3; renumbered 276A.200 in 2017]

291.038 [1967 c.419 §11; 1985 c.594 §1; 1991 c.531 §2; 1993 c.724 §§14,14a; 1995 c.612 §19; 1997 c.484 §2; 1997 c.684 §2; 2003 c.674 §27; 2009 c.601 §3; 2011 c.637 §97; 2013

c.100 §1; 2013 c.692 §1; 2014 c.102 §4; 2015 c.767 §90; 2015 c.807 §41a; renumbered 276A.206 in 2017]

291.039 [2013 c.692 §3; 2014 c.102 §5; 2015 c.807 §42; 2016 c.48 §1; renumbered 276A.203 in 2017]

291.040 State financial report. (1)

Within 180 days of the close of each fiscal year, the Oregon Department of Administrative Services shall prepare a financial report for the State of Oregon. The report shall contain financial statements which fairly present the financial condition and results of operation of the State of Oregon in accordance with current, generally accepted accounting principles and such other financial and statistical information as may be necessary to completely and accurately disclose the financial condition and financial operations of the state and its various agencies.

(2) As used in subsection (1) of this section, “generally accepted accounting principles” means those accounting principles sanctioned by recognized authoritative bodies such as the Governmental Accounting Standards Board, the American Institute of Certified Public Accountants or their successors. [1977 c.897 §1; 1989 c.152 §1; 1991 c.220 §6]

Note: 291.040 and 291.042 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 291 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

291.041 [2015 c.807 §8; 2017 c.513 §7; renumbered 276A.209 in 2017]

291.042 Copyright, patent or other use of state data processing programs, information or materials; disposition of moneys collected. (1) Except as provided in subsection (2) of this section, the State Chief Information Officer:

(a) May hold copyrights and obtain patents on copyrightable or patentable data processing programs, information or materials that a state agency develops, publishes or produces.

(b) May cause to have sold, leased or otherwise made available the data processing programs, information or materials to any agency, judicial body or legislative body of any unit of local government, any state or the federal government under terms and conditions to which the state agency that developed, published or produced the data processing programs, information or materials agrees.

(2) The Secretary of State, the State Treasurer, the judicial department as defined in ORS 174.113 and the legislative department as defined in ORS 174.114:

(a) May hold copyrights and obtain patents on copyrightable or patentable data processing programs, information or materials that the Secretary of State, State Treas-

urer, judicial department or legislative department develops, publishes or produces.

(b) May cause to have sold, leased or otherwise made available the data processing programs, information or materials to any agency, judicial body or legislative body of any unit of local government, any state or the federal government under terms and conditions to which the Secretary of State, State Treasurer, judicial department or legislative department agrees.

(3) Except as provided in this subsection, moneys that a state agency collected under subsection (1) of this section, less expenses that the state agency incurred in developing, producing and distributing software and in training software users, must be deposited in the General Fund and are available for general governmental purposes. If the resources that a state agency expended for the activities described in subsection (1) of this section came from fees or assessments that the state agency charged and collected, the state agency shall deposit the net proceeds of moneys collected under subsection (1) of this section into the same accounts into which the state agency deposits the fees or assessments. The state agency shall use the moneys to reduce the fees or assessments the state agency charges to the extent permitted by law.

(4) Except as provided in this subsection, moneys that the Secretary of State, State Treasurer, judicial department or legislative department collected under subsection (2) of this section, less expenses that the Secretary of State, State Treasurer, judicial department or legislative department incurred in developing, producing and distributing software and in training software users, must be deposited in the General Fund and are available for general governmental purposes. If the resources that the Secretary of State, State Treasurer, judicial department or legislative department expended for the activities described in subsection (2) of this section came from fees or assessments that the secretary, treasurer, judicial department or legislative department charged and collected, the secretary, treasurer, judicial department or legislative department shall deposit the net proceeds of moneys collected under subsection (2) of this section into the same accounts into which the secretary, treasurer, judicial department or legislative department deposits the fees or assessments. The Secretary of State, State Treasurer, judicial department or legislative department shall use the moneys to reduce the fees or assessments the secretary, treasurer, judicial department or legislative department charges to the extent permitted by law.

(5) As used in this section:

(a) "Data processing programs" means software programs and other automated means for processing data.

(b) "State agency" has the meaning given that term in ORS 291.002. [1979 c.740 §3; 1993 c.18 §56; 1995 c.452 §22; 2013 c.481 §1; 2015 c.807 §43]

Note: See note under 291.040.

291.044 State agency quarterly report of employee pay-line exceptions. (1) For each calendar quarter, a state agency shall report to the Oregon Department of Administrative Services the number of state agency employees during the preceding calendar quarter who received a pay-line exception and the amount of each pay-line exception. For each calendar quarter, the department shall compile the results of the state agency reports and submit the results to the Legislative Fiscal Officer.

(2) As used in this section:

(a) "Pay-line exception" means any dollar amount added to the base salary of an employee, including, but not limited to, as a percentage of the base salary or as a specified dollar amount.

(b) "State agency" has the meaning given that term in ORS 291.263. [2013 c.722 §65]

Note: 291.044 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 291 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

PUBLIC CONTRACT APPROVAL

291.045 Definitions for ORS 291.045 and 291.047. As used in this section and ORS 291.047:

(1) "Information technology" includes, but is not limited to, all present and future forms of hardware, software and services for data processing, office automation and telecommunications.

(2) "State agency" includes every state officer, board, commission, department, institution, branch or agency of the state government, whose costs are paid wholly or in part from funds held in the State Treasury, except:

(a) The Legislative Assembly, the courts and their officers and committees; and

(b) The Public Defense Services Commission.

(3) "Public contract" means any acquisition, disposition, purchase, lease, sale or transfer of rights by a state agency of real or personal property, public improvements or services.

(4) "Public improvement" means projects for construction, reconstruction or renovation on real property by or for a state agency. [1997 c.869 §4; 2003 c.449 §22]

291.047 Public contract approval by Attorney General; exemptions; rules. (1) The Attorney General shall approve for legal sufficiency all personal services contracts, all architectural and engineering services contracts and all information technology contracts calling for payment in excess of \$75,000 entered into by a state agency before any such contract becomes binding on the State of Oregon and before any service may be performed or payment may be made under the contract.

(2) The Attorney General shall approve for legal sufficiency all public contracts not subject to subsection (1) of this section that are entered into by a state agency and that provide for payment in excess of \$100,000 before any such contract becomes binding on the State of Oregon and before any service may be performed or payment may be made under the contract.

(3) The Attorney General shall impose by rule requirements necessary to carry out the provisions of this section. The rules must include, but are not limited to, a requirement that state agencies submit to the Attorney General procurement and other contract documents for review of the anticipated contract before the state agency publicly advertises a procurement of goods or services if the anticipated contract is reasonably expected to require review for legal sufficiency. A state agency may request that the Attorney General assist the agency in developing requests for proposals, invitations to bid and requests for qualifications or information that are suitable to the needs of the agency.

(4) The Attorney General may exempt by rule classes of contracts from the requirements of this section if the Attorney General determines that legal review of individual contracts within the class will not materially reduce the degree of risk that state agencies assume under the contracts.

(5) The Attorney General may, by rule, set forth a process to exempt contracts or classes of contracts from the requirements of this section if:

(a) The contract is substantially composed of forms, terms or conditions that the Attorney General has preapproved; or

(b) Circumstances exist that create a substantial risk of loss, damage, interruption of services or threat to public health or safety and that require prompt execution of a contract to deal with the risk.

(6) Notwithstanding subsections (1) and (2) of this section, the Attorney General may authorize services to be performed under a contract described in subsection (1) or (2) of this section before approval for legal sufficiency if the Attorney General determines

that the authorization will not result in undue risk to this state. An authorization under this subsection must be limited to specific classes of contracts or to contracts for specific agency programs. The Attorney General may condition an authorization on a finding by the Director of the Oregon Department of Administrative Services, or a designee of the director, the State Chief Information Officer, or a designee of the State Chief Information Officer, or by any other agency with a role in approving such contracts that the contract administration practices of the requesting agency are adequate to manage the proposed contract and that the mission of the agency will be significantly impaired without such authorization. [1997 c.869 §2; 1999 c.264 §1; 2015 c.807 §44]

291.049 Ratification of public contract when performance begun prior to contract approval; conditions; effects; rules.

(1) If the parties to a public contract perform under the contract before the contract is approved for legal sufficiency by the Attorney General as required under ORS 291.047 and section 3, chapter 869, Oregon Laws 1997, the agency may ratify the public contract if the Attorney General determines that the contract is legally sufficient prior to ratification. As a condition for approval, the Attorney General may require that the contract be amended as necessary to make the contract legally sufficient.

(2) Upon approval of the public contract for legal sufficiency and ratification of the public contract by a state agency under this section, the public contract is effective and the state agency may make payments on the ratified public contract even if the payments are for services rendered prior to ratification.

(3) The Attorney General may adopt rules to implement this section. [1999 c.264 §2]

Note: 291.049 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 291 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

AGENCY FEE RESTRICTIONS

291.050 Definitions for ORS 291.050 to 291.060. As used in ORS 291.050 to 291.060:

(1) “Fee” means an amount imposed and collected by a state agency to defray or recover the costs of administering the law involved in providing a service to the public and used by the state agency to carry out or enforce a law under its jurisdiction. “Fee” does not include:

(a) Fines, civil penalties or court judgments.

(b) Proceeds from the sale of products or charges for rents, leases or other real estate transactions.

(c) Interest and other charges for bonding and loan transactions.

(d) Charges levied by one state agency on another state agency.

(e) Copying charges for public records as defined in ORS 192.311.

(f) Charges for attendance at informational seminars.

(2) “Legislatively adopted budget” has the meaning given that term in ORS 291.002.

(3) “Legislatively approved budget” has the meaning given that term in ORS 291.002.

(4) “Products” means goods and publications purchased voluntarily that have a commercial value. “Products” does not include licenses or permits issued by state agencies.

(5) “State agency” means every state officer, board, commission, department, institution, branch or agency of the state government that is subject to the provisions of ORS 291.201 to 291.222 and 291.232 to 291.260. “State agency” includes the Legislative Assembly, including legislative committees and service agencies, the Secretary of State, the State Treasurer and the Judicial Department. “State agency” does not include a commodity commission established under ORS 576.051 to 576.455 or the Oregon Beef Council created under ORS 577.210. [1995 c.576 §1; 2003 c.604 §99; 2007 c.827 §1; 2011 c.688 §2]

Note: 291.050 to 291.060 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 291 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

291.055 State agency fee approval; exemptions; restoration of temporarily reduced fees.

(1) Notwithstanding any other law that grants to a state agency the authority to establish fees, all new state agency fees or fee increases adopted during the period beginning on the date of adjournment sine die of a regular session of the Legislative Assembly and ending on the date of adjournment sine die of the next regular session of the Legislative Assembly:

(a) Are not effective for agencies in the executive department of government unless approved in writing by the Director of the Oregon Department of Administrative Services;

(b) Are not effective for agencies in the judicial department of government unless approved in writing by the Chief Justice of the Supreme Court;

(c) Are not effective for agencies in the legislative department of government unless approved in writing by the President of the

Senate and the Speaker of the House of Representatives;

(d) Shall be reported by the state agency to the Oregon Department of Administrative Services within 10 days of their adoption; and

(e) Are rescinded on adjournment sine die of the next regular session of the Legislative Assembly as described in this subsection, unless otherwise authorized by enabling legislation setting forth the approved fees.

(2) This section does not apply to:

(a) Any tuition or fees charged by a public university listed in ORS 352.002.

(b) Taxes or other payments made or collected from employers for unemployment insurance required by ORS chapter 657 or premium assessments required by ORS 656.612 and 656.614 or contributions and assessments calculated by cents per hour for workers' compensation coverage required by ORS 656.506.

(c) Fees or payments required for:

(A) Health care services provided by the Oregon Health and Science University, by the Oregon Veterans' Homes and by other state agencies and institutions pursuant to ORS 179.610 to 179.770.

(B) Copayments and premiums paid to the Oregon medical assistance program.

(C) Assessments paid to the Department of Consumer and Business Services under sections 3 and 5, chapter 538, Oregon Laws 2017.

(d) Fees created or authorized by statute that have no established rate or amount but are calculated for each separate instance for each fee payer and are based on actual cost of services provided.

(e) State agency charges on employees for benefits and services.

(f) Any intergovernmental charges.

(g) Forest protection district assessment rates established by ORS 477.210 to 477.265 and the Oregon Forest Land Protection Fund fees established by ORS 477.760.

(h) State Department of Energy assessments required by ORS 456.595 and 469.421 (8).

(i) Assessments on premiums charged by the Director of the Department of Consumer and Business Services pursuant to ORS 731.804 or fees charged by the director to banks, trusts and credit unions pursuant to ORS 706.530 and 723.114.

(j) Public Utility Commission operating assessments required by ORS 756.310 or charges paid to the Residential Service Pro-

tection Fund required by chapter 290, Oregon Laws 1987.

(k) Fees charged by the Housing and Community Services Department for intellectual property pursuant to ORS 456.562.

(L) New or increased fees that are anticipated in the legislative budgeting process for an agency, revenues from which are included, explicitly or implicitly, in the legislatively adopted budget or the legislatively approved budget for the agency.

(m) Tolls approved by the Oregon Transportation Commission pursuant to ORS 383.004.

(n) Portal provider fees as defined in ORS 276A.270 and established by the State Chief Information Officer under ORS 276A.276 (3) and recommended by the Electronic Government Portal Advisory Board.

(o) Fees set by the State Parks and Recreation Director and approved by the State Parks and Recreation Commission under ORS 390.124 (2)(b).

(3)(a) Fees temporarily decreased for competitive or promotional reasons or because of unexpected and temporary revenue surpluses may be increased to not more than their prior level without compliance with subsection (1) of this section if, at the time the fee is decreased, the state agency specifies the following:

(A) The reason for the fee decrease; and

(B) The conditions under which the fee will be increased to not more than its prior level.

(b) Fees that are decreased for reasons other than those described in paragraph (a) of this subsection may not be subsequently increased except as allowed by ORS 291.050 to 291.060 and 294.160. [1995 c.576 §2; 1997 c.37 §1; 1997 c.684 §3; 2003 c.605 §3; 2005 c.727 §§14,15; 2005 c.744 §§24d,24e; 2005 c.777 §16; 2007 c.531 §§14,15; 2007 c.827 §§2,3; 2009 c.829 §4; 2009 c.867 §40; 2011 c.637 §98; 2011 c.688 §1; 2013 c.492 §30; 2013 c.698 §§9,36; 2013 c.768 §127; 2015 c.70 §§19,20; 2015 c.807 §§44a,44b; 2017 c.17 §§23,24; 2017 c.385 §§2,3; 2017 c.444 §§4,5; 2017 c.538 §§15,16]

Note: See note under 291.050.

291.060 Report of fees to Legislative Assembly. The Oregon Department of Administrative Services shall, no later than January 15 of each odd-numbered year, provide the Legislative Assembly with a report setting forth in detail all fees charged by each state agency, the purpose for the fee or charge, the persons affected by the fee or charge, the statutory authority for the fee or charge, the amounts collected in the past biennium, the amounts expected to be paid during the present biennium and estimated for the next biennium in the Governor's budget, and any changes in the fee or charge

authorized during the present biennium or proposed for the next biennium in the Governor's budget. The department shall report to the Emergency Board and the appropriate interim committee when requested to provide information concerning the development of the report. [1995 c.576 §3; 2016 c.117 §8]

Note: See note under 291.050.

FINANCIAL MANAGEMENT DUTIES

291.100 Financial management; duties of Oregon Department of Administrative Services; duties of state agencies. (1) It is the intent of the Legislative Assembly, in funding the development and implementation of a new statewide financial management system, that statewide financial management systems and policies support program-driven budget planning and execution, based on timely and accurate statewide managerial cost accounting information and that such systems support legislative program evaluation and performance auditing of statewide programs and services.

(2) The Oregon Department of Administrative Services shall devise and supervise statewide financial management systems for all state agencies by preparing policies and procedures for implementing and operating financial management systems for all agencies in state government and measuring implementation. In order to ensure that the state's investment in a modern and complete statewide financial management system is fully implemented, every agency and unit of state government shall:

(a) Cooperate and comply fully with policies and procedures and deadlines prepared by the Oregon Department of Administrative Services for establishing a database for the financial management system.

(b) Comply fully with policies and procedures prepared by the Oregon Department of Administrative Services for operation of the financial management system. [1993 c.724 §22; 1995 c.452 §23; 2012 c.107 §102; 2016 c.117 §9]

Note: 291.100 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 291 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

291.110 Achieving performance outcomes; monitoring agency progress. (1) The Oregon Department of Administrative Services shall ensure that state agency activities and programs are directed toward achieving performance outcomes. The department shall:

(a) Monitor progress, identify barriers and generate alternative approaches for attaining performance outcomes.

(b) Ensure the development of a statewide system of performance measures designed to increase the efficiency and effectiveness of state programs and services.

(c) Provide agencies with direction on the appropriate format for reporting performance measures to ensure consistency across agencies.

(d) Consult with the Legislative Assembly to assist in devising a system of performance measures.

(e) Facilitate the development of performance measures in those instances where performance measures involve more than one state agency.

(f) Prior to budget development and adoption of a performance measurement system, consult with the legislative review agency, as defined in ORS 291.371, or other appropriate legislative committee, as determined by the President of the Senate and the Speaker of the House of Representatives.

(g) No later than October 1 of each year, submit a report to the Legislative Fiscal Officer on the progress state agencies have made in meeting performance measures.

(2) State agencies shall develop measurable performance measures consistent with and aimed at achieving performance outcomes. To that end, each state agency shall:

(a) Identify the mission, goals and objectives of the agency and any applicable performance measures to which the goals are directed.

(b) Develop written defined performance measures that quantify desired organization intermediate outcomes, outputs, responsibilities, results, products and services, and, where possible, develop unit cost measures for evaluating program efficiency.

(c) Involve agency managers, supervisors and employees in the development of statements of mission, goals, objectives and performance measures as provided in paragraphs (a) and (b) of this subsection and establish teams composed of agency managers, supervisors and employees to implement agency goals, objectives and performance measures. Where bargaining unit employees are affected, they shall have the right to select those employees of the agency, through their labor organization, to serve on any joint committees established to develop performance measures.

(d) Use performance measures to work toward achievement of identified missions, goals and objectives.

(e) Review agency performance measures with the appropriate legislative committee, as determined by the President of the Senate and the Speaker of the House of Representatives, during each odd-numbered year regular session of the Legislative Assembly. [1993 c.724 §7; 2001 c.582 §9; 2005 c.837 §18; 2011 c.545 §19; 2016 c.117 §10]

291.120 Distribution of agency savings; agency use. (1) Pursuant to ORS 291.252, if the Oregon Department of Administrative Services certifies agency savings due to agency actions rather than changes in service demands and such actions do not materially reduce legislatively authorized programs, 50 percent of the savings shall be credited to the General Fund or, if the agency's funds originated as dedicated funds or federal funds, to the fund or account of the agency to be used for purposes of the fund or account.

(2) The remaining 50 percent shall be continuously appropriated to the agency for enhancing professional development, including employee training projects related to productivity, technology enhancement and related expenditures that have a long term benefit. A productivity improvement project may be for research and development intended to lead to improved productivity. [1993 c.724 §2]

STATE BUDGET; GOVERNOR'S BUDGET AND TAX EXPENDITURE REPORT

291.190 Short title. ORS 291.195, 291.201 and 291.203 may be cited as the Budget Accountability Act. [1995 c.746 §61]

Note: 291.190 and 291.195 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 291 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

291.195 Policy for financial expenditure planning. (1) The Legislative Assembly hereby declares that the ability to make fiscally sound and effective spending decisions has been enhanced by requiring agencies and programs to develop performance measures and to evaluate all General Fund, State Lottery Fund and other expenditures in accordance with these performance measures. Fiscal pressure on this state requires even greater accountability and necessitates a review of the fairness and efficiency of all tax deductions, tax exclusions, tax subtractions, tax exemptions, tax deferrals, preferential tax rates and tax credits. These types of tax expenditures are similar to direct government expenditures because they provide special benefits to favored individuals or businesses, and thus result in higher tax rates for all individuals.

(2) The Legislative Assembly further finds that 76 percent of property in this state is exempt from property taxation and that income tax expenditures total billions of dollars per biennium. An accurate and accountable state budget should reflect the true costs of tax expenditures and should fund only those tax expenditures that are effective and efficient uses of limited tax dollars.

(3) The Legislative Assembly declares that it is in the best interest of this state to have prepared a biennial report of tax expenditures that will allow the public and policy makers to identify and analyze tax expenditures and to periodically make criteria-based decisions on whether the expenditures should be continued. The tax expenditure report will allow tax expenditures to be debated in conjunction with online budgets and will result in the elimination of inefficient and inappropriate tax expenditures, resulting in greater accountability by state government and a lowering of the tax burden on all taxpayers. [1995 c.746 §62]

Note: See note under 291.190.

291.200 Budget policy. (1) It is the intent of the Legislative Assembly to require the Governor, in the preparation of the Governor's budget, to state as precisely as possible what programs the Governor recommends be approved for funding under estimated revenues under ORS 291.342. If estimated revenues are inadequate, the Legislative Assembly intends that it be advised by the Governor as precisely as possible how the Legislative Assembly might proceed to raise the additional funds. It is also the intent of the Legislative Assembly, in the event that the additional funding is not possible, to be informed by the Governor precisely what programs or portions thereof the Governor recommends be reduced accordingly. Finally, if the Governor chooses to recommend additional new programs or program enhancements, the Legislative Assembly intends that the Governor specify how the additional funding might be achieved. The Legislative Assembly believes that the state government must allocate its resources for effective and efficient delivery of public services by:

- (a) Clearly identifying desired results;
- (b) Setting priorities;
- (c) Assigning accountability; and
- (d) Measuring, reporting and evaluating outcomes to determine future allocation.

(2) In addition to the intentions of subsection (1) of this section, in preparing the Governor's budget, the Governor and the Legislative Assembly shall use an outcomes-based budgeting process described in ORS 291.217 (2) and (3).

(3) To achieve the intentions of subsections (1) and (2) of this section, it is the budget policy of this state to create and administer programs and services designed to attain societal outcomes and to promote the efficient and measured use of resources.

(4) To effect the policy stated in subsection (3) of this section, state government shall:

- (a) Allocate resources to achieve desired outcomes;
- (b) Express program outcomes in measurable terms;
- (c) Measure progress toward desired outcomes;
- (d) Encourage savings;
- (e) Promote investments that reduce or avoid future costs;
- (f) Plan for the short term and long term using consistent assumptions for major demographic and other trends; and
- (g) Require accountability at all levels for meeting program outcomes. [1985 c.270 §1; 1993 c.724 §8; 2011 c.563 §6; 2016 c.117 §11]

Note: 291.200 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 291 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

291.201 “Tax expenditure” defined for ORS 291.201 to 291.222. As used in ORS 291.201 to 291.222, “tax expenditure” means any law of the federal government or this state that exempts, in whole or in part, certain persons, income, goods, services or property from the impact of established taxes, including but not limited to tax deductions, tax exclusions, tax subtractions, tax exemptions, tax deferrals, preferential tax rates and tax credits. [1995 c.746 §63; 2005 c.837 §9; 2007 c.217 §11]

291.202 Budget and tax expenditure report of Governor; department to assist in preparation. (1) Except as otherwise provided in ORS 291.222, the Governor shall prepare in each even-numbered year for the biennium beginning July 1 of the following year:

- (a) A Governor’s budget; and
- (b) A tax expenditure report.

(2) The Oregon Department of Administrative Services shall advise and assist the Governor in the preparation of the Governor’s budget and the tax expenditure report and shall perform any duties connected to the budget or report as the Governor requires.

(3) The Department of Revenue shall advise and assist the Governor in the preparation of the tax expenditure report. [Amended by 1969 c.464 §2; 1995 c.746 §64; 2016 c.117 §12]

291.203 Tax expenditure report by Governor. (1) Not later than November 10 of each even-numbered year, the Governor shall cause the tax expenditure report to be compiled and prepared for printing.

(2) In the tax expenditure report, the Governor shall:

- (a) List each tax expenditure;
- (b) Identify the statutory authority for each tax expenditure;
- (c) Describe the purpose of each tax expenditure;
- (d) Estimate the amount of revenue loss caused by each tax expenditure for the coming biennium;
- (e) List the actual amount of revenue loss in the preceding biennium for each tax expenditure or an estimate if the actual amount cannot be determined;
- (f) Determine whether each tax expenditure has successfully achieved the purpose for which the tax expenditure was enacted and currently serves, including an analysis of the persons that are benefited by the expenditure; and

(g) Categorize each tax expenditure according to the programs or functions each tax expenditure supports. [1995 c.746 §65; 2016 c.117 §13]

291.204 Instructions to agencies for submitting budget information. (1) The Oregon Department of Administrative Services, by July 1 of each even-numbered year, shall furnish every state agency with:

- (a) Instructions for preparing for submission to the Governor the information required by the Governor in the preparation of the Governor’s budget; and
- (b) Instructions for preparing the proposed maximum supervisory ratio report required by ORS 291.227 (1).

(2) The Governor shall prescribe the instructions to be used by the agencies in submitting their agency request budgets as required by ORS 291.208. [Amended by 2016 c.117 §14; 2017 c.285 §2]

291.206 Guidance of agencies in completing agency request budgets; 10 percent cost reduction options. (1) The Governor shall prescribe rules the Governor considers necessary for the guidance of agencies in the preparation of agency request budgets. The Governor shall use the classifications of expenditures provided in ORS 291.216 (6)(a) and shall prepare and prescribe classifications of revenue for the purpose of budget-making and accounting.

(2) In so far as practicable, agency request budgets and appropriation measures shall be prepared in a manner that reflects

state governmental organization and state agency duties, functions and powers under the law in effect on January 1 of the following year. The Oregon Department of Administrative Services shall maintain agency request budgets in the form in which they are submitted.

(3) As supplemental information, each agency request budget shall include options for a 10 percent reduction from the estimate of the projected costs of continuing currently authorized activities or programs for the next biennium, excluding debt service. Each state agency shall describe the 10 percent reduction in terms of the activities or programs that the agency will not undertake. The activities or programs must be ranked in order of importance and priority on the basis of lowest cost for benefit obtained. [Amended by 1969 c.173 §1; 2016 c.117 §15]

291.208 Filing agency request budgets with department; preparing budgets for agencies failing to file. Each state agency shall file with the Oregon Department of Administrative Services, before September 1 in each even-numbered year in the manner required, an agency request budget containing the information required. The department shall prepare agency request budgets for all agencies that fail to file budgets. [Amended by 2016 c.117 §16]

291.210 Preparing tentative budget; updating projected costs of currently authorized programs. (1) The Oregon Department of Administrative Services and the Legislative Fiscal Officer shall prepare a tentative budget for the next biennium for which the Governor's budget is prepared. The tentative budget shall consist of the estimated revenues under ORS 291.342 for the next biennium and a preliminary estimate of the projected costs of continuing currently authorized programs for the next biennium.

(2) The Legislative Fiscal Officer shall, during the development of the legislatively adopted budget, review and update projected costs of continuing currently authorized programs for the next biennium, including:

- (a) Position vacancy assumptions;
- (b) Standard and exceptional inflation adjustments;
- (c) Mandated caseloads; and
- (d) Other assumptions used in developing the tentative budget. [Amended by 1995 c.746 §66; 2016 c.117 §17; 2017 c.746 §8]

291.212 [Repealed by 2016 c.117 §75]

291.214 Governor to prepare recommendations regarding certain tax expenditures. (1) The Governor, during the preparation of the Governor's budget and before its submission to the Legislative Assem-

bly, shall identify each tax expenditure that has a full or partial sunset that, if allowed to take effect, will have a fiscal impact on the state or on school districts for the next biennium, and shall prepare a recommendation as to each tax expenditure identified under this paragraph that indicates the Governor's opinion on whether the full or partial sunset of the tax expenditure should be allowed to take effect as scheduled or should be revised to a different date.

(2) As used in this section:

(a) "Full sunset" means any provision that completely eliminates an existing tax expenditure on a specified date.

(b) "Partial sunset" means any provision that reduces the amount of an existing tax expenditure or that alters the eligibility requirements for the expenditure as of a specified date. [Amended by 1995 c.746 §67; 2016 c.117 §18]

291.215 Governor's budget to include amount for deferred maintenance and capital improvements. (1) Each biennium, the Governor shall propose as part of the Governor's recommended budget an amount for deferred maintenance and capital improvements on existing state-owned buildings and infrastructure that is equivalent to at least two percent of the current replacement value of the state-owned buildings and infrastructure.

(2) As used in this section, "state-owned buildings and infrastructure" does not include:

(a) Buildings and infrastructure owned by or for the use of a public university listed in ORS 352.002 or a community college as defined in ORS 341.005; or

(b) Transportation infrastructure, including roads and bridges. [2017 c.746 §9]

Note: 291.215 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 291 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

291.216 Governor's budget; when due; content. (1) The Governor's budget shall include a budget message prepared by the Governor, including recommendations of the Governor with reference to the fiscal policy of the state government for the coming biennium, describing the important features of the budget, embracing a general budget summary setting forth the aggregate figures of the budget so as to show a balanced relation between the total proposed expenditures and the total anticipated income, with the basis and factors on which the estimates are made, the amount to be borrowed, and other means of financing the estimated expenditures for the ensuing biennium, compared with the corresponding figures for at

least the last completed biennium and the current biennium.

(2) The Governor's budget shall be supported by explanatory schedules or statements, classifying the expenditures reported in the budget, both past and proposed, by organization units, objects and funds, and the income by organization units, sources and funds, and the proposed amount of new borrowing as well as proposed new tax or revenue sources, including a single comprehensive list of all proposed increases in fees, licenses and assessments assumed in the budget.

(3) The Governor's budget shall be submitted for all dedicated funds, as well as the state General Fund, and shall include the estimated amounts of federal and other aids or grants to state agencies or activities provided for any purpose whatever, together with estimated expenditures therefrom.

(4) The Governor's budget shall embrace the detailed estimates of expenditures and revenues. It shall include:

(a) Statements of the bonded indebtedness of the state government, showing the actual amount of the debt service for at least the past biennium, and the estimated amount for the current biennium and the ensuing biennium, the debt authorized and unissued, the condition of the sinking funds and the borrowing capacity.

(b) The Governor's recommendations concerning tax expenditures identified under ORS 291.214.

(c) Any statements relative to the financial plan which the Governor may consider desirable or which may be required by the Legislative Assembly.

(5) The Governor's budget shall use the estimated revenues under ORS 291.342 for the fiscal year in which the budget is submitted as the basis for total anticipated income under subsection (1) of this section, subject to adjustment as may be necessary to reflect accurately projections for the next biennium.

(6)(a) The Governor's budget shall present information regarding the expenses of the state in the following categories:

(A) Personnel expenses, including compensation and benefits for state employees, but excluding costs of services contracted out and temporary service costs.

(B) Supplies, equipment and the costs of services contracted out.

(C) Special payments.

(D) Capital construction.

(E) Capital outlay.

(F) Debt service.

(b) For each category described in paragraph (a) of this subsection, the budget shall show actual expenditures for the prior biennium and estimated expenditures for the current biennium.

(c) As supplemental information to the budget, the Governor shall include an estimate of the projected costs of continuing currently authorized programs in the next biennium. The estimate shall include, but is not limited to the projected costs of:

(A) Removing one-time expenditures;

(B) Program phase-ins and phase-outs;

(C) Personnel expenses compared to existing compensation plan agreements, including position vacancy experience calculations;

(D) Inflation for services, supplies and medical costs;

(E) Transfers between state funds or accounts;

(F) Mandated caseload changes; and

(G) Debt service for previously issued debt.

(d) The budget shall show the total increase in the cost of salaries and benefits for all state positions.

(7) The Governor's budget shall include:

(a) The total number of positions and full-time equivalent positions included in the budget.

(b) The average vacancy rate in the present biennium.

(c) The number of permanent, full-time equivalent vacancies as of July 1 of even-numbered years.

(8) The Governor's budget shall include computations showing budget figures as a percentage of the total General Fund, federal fund, fee or other source category, as may be appropriate.

(9) The Governor's budget shall include, in a format that provides side-by-side comparison with the State Debt Policy Advisory Commission report of net debt capacity, a six-year forecast, by debt type and repayment source, of:

(a) That portion of the capital construction program required to be reported by ORS 291.224 that will be financed by debt issuance.

(b) The acquisition of equipment or technology in excess of \$500,000 that will be financed by debt issuance.

(c) Other state agency debt issuance for grant or loan purposes.

(10) The Governor's budget shall include the outcomes-based budgeting information required by ORS 291.217 (2) and (3).

(11) The Governor's budget shall include recommendations regarding available funds that could be used to make lump sum payments to the Public Employees Retirement System under ORS 238.229. [Amended by 1985 c.270 §2; 1993 c.724 §9; 1995 c.746 §68; 1995 c.787 §1; 1997 c.49 §3; 1997 c.249 §88; 1999 c.1091 §1; 2011 c.563 §7; 2016 c.117 §19; 2017 c.746 §10]

291.217 Outcomes-based budget; contents; legislative review of performance management and performance measurement processes for services provided by contract or by school districts. (1) As used in this section:

(a) "Continuous improvement" means a set of actions designed to permanently improve state agency performance, either in a specific targeted area or across all levels of an agency, through the use of structured process analysis and problem solving.

(b) "Outcomes-based budget" means a budget that allocates government resources to those uses of taxpayer moneys and fee revenues that will best produce the outcomes most important to the residents of this state, that generates options for funding, that uses service redesign, competition, collaboration and prioritization to drive continuous improvement and innovations, and that can be used to align government, nonprofit and private resources to help produce the desired outcomes.

(c) "Performance management" means a formal, comprehensive set of business processes, including strategic planning, performance measurement, leadership, process management and human resources that help ensure more efficient and effective management operations and practices and reduce costs.

(d) "Performance measurement" means a process of assessing progress toward achieving predetermined program objectives, including information on the efficiency with which resources are transformed into goods and services, the quality of those goods and services, the results of a program activity compared to its intended purpose and the effectiveness of state agency operations in terms of their specific contributions to program objectives.

(e) "State agency" means every state officer, board, commission, department, institution, branch or agency of the state government whose costs are paid wholly or in part from funds held in the State Treasury.

(f) "State government" has the meaning given that term in ORS 174.111.

(2) As part of the Governor's budget required under ORS 291.216, the Oregon Department of Administrative Services and the

Governor shall submit an outcomes-based budget. The outcomes-based budget shall be based on the desired results of state agency continuous improvement actions, performance management and performance measurement, shall describe and measure state agency efforts to implement process improvements and shall reflect state agency efforts to achieve, through process improvements, quality service delivery at a lower cost.

(3) The budget for each state agency shall:

(a) Identify how the agency is addressing continuous improvement, performance management and performance measurement; and

(b) For each agency program, state the number of persons served, or other units of service provided, by the program.

(4) The Joint Committee on Ways and Means, the Emergency Board, the Joint Interim Committee on Ways and Means and the Legislative Fiscal Office may review performance management and performance measurement processes for services provided by contract by state agencies or by school districts. [2011 c.563 §§2 to 4; 2012 c.107 §8; 2016 c.117 §20]

291.218 Printing Governor's budget and tax expenditure report; transmitting to members of legislature; distribution. Except when the Governor under whose supervision the Governor's budget and the tax expenditure report have been prepared will be succeeded in office in January next following:

(1) The Oregon Department of Administrative Services shall have as many copies of the Governor's budget and the tax expenditure report printed as the Governor directs.

(2) Not later than December 1 of each even-numbered year, the Governor shall transmit a copy of the Governor's budget and the tax expenditure report to each member of the Legislative Assembly who is to serve during the next regular session of the Legislative Assembly.

(3) Upon request, the Governor shall distribute copies of the Governor's budget and the tax expenditure report free of charge to public libraries, schools and state officials. The Governor shall make copies available to the general public at a reasonable charge for each copy. [Amended by 1959 c.140 §1; 1967 c.302 §1; 1995 c.746 §69; 2011 c.545 §20; 2016 c.117 §21]

291.220 Furnishing information and assistance to legislature. (1) The Governor, upon request, shall furnish the Legislative Assembly any further information required concerning the Governor's budget and the tax expenditure report.

(2) The Oregon Department of Administrative Services, upon request, shall furnish a representative to assist the Legislative Assembly, the Joint Committee on Ways and Means and the Legislative Revenue Officer in the consideration of the budget, the tax expenditure report and any accompanying measures. [Amended by 1969 c.173 §2; 1975 c.789 §8; 1995 c.746 §70; 2016 c.117 §22]

291.222 Furnishing information and assistance to Governor-elect; revision of budget and tax expenditure report. If the Governor under whose supervision the Governor's budget and tax expenditure report have been prepared will be succeeded in office in January next following:

(1) The Oregon Department of Administrative Services shall make available to the Governor-elect so much as the Governor-elect requests of the information upon which the Governor's budget and tax expenditure report are based, and upon completion of the budget and tax expenditure report, shall supply the Governor-elect with a copy of the budget and report, but may not print or distribute the budget or report. The department shall also make available to the Governor-elect all facilities of the department reasonably necessary to permit the Governor-elect to review and become familiar with the budget or tax expenditure report.

(2) After a review of the Governor's budget and tax expenditure report, the Governor-elect may prepare revisions and additions to the budget or report. The Oregon Department of Administrative Services and the Department of Revenue shall assist, upon request, in the preparation of any revisions or additions.

(3) The Oregon Department of Administrative Services shall have printed as many copies of the revised Governor's budget and revised tax expenditure report as the Governor-elect requests.

(4) Not later than February 1 of each odd-numbered year, the Oregon Department of Administrative Services shall transmit a copy of the revised Governor's budget and revised tax expenditure report to each member of the Legislative Assembly.

(5) Upon request, the department shall distribute copies of the revised Governor's budget and revised tax expenditure report free of charge, under any rules the department may adopt, to public libraries, schools and state officials. The department shall make copies of the revised budget and revised tax expenditure report available to the general public at a reasonable charge for each copy. [Amended by 1967 c.302 §2; 1969 c.464 §3; 1995 c.746 §71; 2016 c.117 §23]

291.223 Furnishing budget estimates to Legislative Fiscal Officer and Legislative Revenue Officer; confidentiality of estimates. (1) Not later than November 10 of each even-numbered year the Governor shall cause the Governor's budget estimates to be made available to the Legislative Fiscal Officer and to the Legislative Revenue Officer.

(2) Before December 1 of the year in which they were made available under subsection (1) of this section, the Legislative Fiscal Officer or staff and the Legislative Revenue Officer or staff may not reveal to any other person the contents or nature of the Governor's budget or other materials, except with the written consent of the Governor. [1969 c.173 §4; 1975 c.789 §9; 2016 c.117 §24]

291.224 Inclusion of capital construction program in Governor's budget; furnishing information to Capitol Planning Commission. (1) A capital construction program containing estimated capital construction needs, irrespective of how financed, must be included with the Governor's budget. The capital construction program must contain the estimated physical construction requirements for each biennium of a period to be determined by the Governor, which period may not be less than six years. The Oregon Department of Administrative Services shall assist the Governor in the preparation of the capital construction program.

(2) In accordance with regulations prescribed by the department, state agencies shall submit to the department their anticipated capital construction requirements for the period specified by the Governor. The department shall prescribe the basic assumptions relating to population changes, economic trends and other factors which might generally affect capital construction requirements and these basic assumptions must be used by the state agencies in preparing their anticipated capital construction requirements. Each state agency is responsible for the basic assumptions that affect only its own program. The department shall prepare estimated capital construction requirements for necessary capital construction not covered by the capital construction requirements submitted by the state agencies under this section.

(3) In accordance with regulations prescribed by the department, each state agency shall separately submit its estimated office space requirements for the period specified by the Governor, and the department shall consolidate those needs and make an estimate for all state office buildings to be included in the capital construction program.

(4) The Governor shall consolidate the estimates, review the estimates and make revisions the Governor finds warranted.

(5) The Governor's budget must include the proposed expenditures for the capital construction program for the ensuing biennium and the proposed expenditures for preliminary planning of the construction projects included in the capital construction program for the biennium following the ensuing biennium. The budget also must include dollar estimates of the cost of the capital construction projects included in the capital construction program for the succeeding years of the period determined by the Governor under subsection (1) of this section.

(6) Each state agency, including the department, required under subsection (2) of this section to submit or prepare anticipated or estimated capital construction requirements, shall submit a copy of the requirements that relate to construction or improvements within the areas described in ORS 276.054 to the Capitol Planning Commission at a time specified by the commission, but not later than August 1 of each even-numbered year. The commission shall review the capital construction requirements and, not later than November 1 of each even-numbered year, make recommendations to the department with respect to the requirements.

(7) As used in this section, "capital construction program" does not include:

(a) The acquisition, repair, improvement, enlargement, construction or maintenance of highways and highway bridges by the Department of Transportation;

(b) Park improvements by the State Parks and Recreation Department; or

(c) Road infrastructure work performed under timber sale contracts entered into by the State Forester. [1959 c.500 §1; 1973 c.129 §5; 1989 c.904 §30; 1997 c.285 §4; 2003 c.796 §§15,16; 2005 c.217 §24; 2009 c.896 §11; 2016 c.117 §25]

291.226 [1963 c.617 §3; repealed by 2016 c.117 §75]

291.227 Maximum supervisory ratios of certain state agencies; reporting; rules. (1)(a) As part of the development of the legislatively adopted budget, each state agency that employs more than 100 employees shall report to the Joint Committee on Ways and Means the state agency's maximum supervisory ratio for the biennium.

(b) Before submitting the report to the committee, a state agency shall provide a copy of the report to all labor organizations that represent employees of the state agency.

(2) A state agency must determine its maximum supervisory ratio by starting from a baseline ratio of one to 11 and adjusting

the ratio based on some or all of the following factors:

(a) Safety of the public or of state agency employees;

(b) Geographic location of the agency's employees;

(c) Complexity of the agency's duties;

(d) Industry best practices and standards;

(e) Size and hours of operation of the agency;

(f) Unique personnel needs of the agency, including the agency's use of volunteers or seasonal or temporary employees, or the exercise of supervisory authority by agency supervisory employees over personnel who are not agency employees; and

(g) Financial scope and responsibility of the agency.

(3) The Joint Committee on Ways and Means shall review the maximum supervisory ratios reported by state agencies. The committee shall include the maximum supervisory ratio in a budget report or budget note for each state agency that reported a maximum supervisory ratio.

(4) Subject to subsection (5) of this section, a state agency whose actual supervisory ratio is greater than its maximum supervisory ratio may not fill a supervisory position.

(5)(a) The Oregon Department of Administrative Services may exempt a state agency from the limitations of subsection (4) of this section if the department determines that an additional supervisory position is reasonably necessary to the state agency. The department must make the determination with reference to some or all of the factors set forth in subsection (2) of this section.

(b) At least five business days before granting an exemption under this subsection, the department shall notify all labor organizations that represent employees of the state agency of its intent to grant the exemption.

(6)(a) The department shall, once per quarter, produce reports on the actual supervisory ratio of each state agency. The reports must include data on job families within each state agency to the extent such data is reasonably available.

(b) The department shall make the reports publicly available on the Internet and shall notify all labor organizations that represent state employees when the reports are available.

(7) The department may adopt rules for the administration of this section, including rules governing how temporary, seasonal or part-time employees are accounted for in the calculation of a supervisory ratio.

(8) As used in this section:

(a) “Job families” means groups of occupations based upon work performed, skills, education, training and credentials.

(b) “Legislatively adopted budget” has the meaning given that term in ORS 291.002.

(c)(A) “State agency” means all state officers, boards, commissions, departments, institutions, branches, agencies, divisions and other entities, without regard to the designation given to those entities, that are within the executive branch of government as described in Article III, section 1, of the Oregon Constitution.

(B) “State agency” does not include:

(i) The legislative department as defined in ORS 174.114;

(ii) The judicial department as defined in ORS 174.113;

(iii) The Public Defense Services Commission;

(iv) The Secretary of State and the State Treasurer;

(v) Semi-independent state agencies listed in ORS 182.454;

(vi) The Oregon Tourism Commission;

(vii) The Oregon Film and Video Office;

(viii) Public universities listed in ORS 352.002;

(ix) The Oregon Health and Science University;

(x) The Travel Information Council;

(xi) Oregon Corrections Enterprises;

(xii) The Oregon State Lottery Commission;

(xiii) The State Accident Insurance Fund Corporation;

(xiv) The Oregon Utility Notification Center;

(xv) Oregon Community Power;

(xvi) The Citizens’ Utility Board;

(xvii) A special government body as defined in ORS 174.117;

(xviii) Any other public corporation created under a statute of this state and specifically designated as a public corporation; and

(xix) Any other semi-independent state agency denominated by statute as a semi-independent state agency.

(d) “Supervisory employee” has the meaning given that term in ORS 243.650.

(e) “Supervisory ratio” means the ratio of employees who are supervisory employees to employees who are not supervisory employees. [2017 c.285 §1]

Note: 291.227 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 291 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

291.228 [2001 c.895 §6; 2003 c.14 §144; 2005 c.209 §2; repealed by 2016 c.117 §75]

291.229 [2011 c.603 §1; 2012 c.101 §2; 2013 c.1 §104; 2013 c.748 §2; 2015 c.3 §39; 2015 c.767 §91; repealed by 2017 c.285 §3]

291.230 [2005 c.837 §11; repealed by 2007 c.217 §12]

291.231 [2012 c.101 §1; 2013 c.1 §103; 2013 c.748 §1; 2015 c.3 §40; 2015 c.767 §92; repealed by 2017 c.285 §3]

ALLOTMENTS

291.232 Declaration of policy. (1) It is declared to be the policy and intent of the Legislative Assembly that:

(a) The legislatively adopted or approved budget for a state agency constitutes a determination by the Legislative Assembly of the amount needed by the agency for the biennium to meet the responsibilities imposed on the agency through the budget and through statutes governing the agency; and

(b) Except as provided in subsections (2) and (3) of this section, appropriations from the General Fund to a state agency constitute a direction to the agency to spend the amount of moneys appropriated in order to meet the responsibilities imposed on the agency through the budget and through statutes governing the agency.

(2) If a state agency does not need all of the moneys that are made available to it by the legislatively adopted or approved budget to meet its responsibilities, the agency need not spend all moneys appropriated or otherwise made available to it.

(3) The Governor and the Oregon Department of Administrative Services are given the powers granted by ORS 291.201 to 291.222 and 291.232 to 291.260 in order that the Governor and the department might effect savings, without reducing the responsibilities imposed on state agencies, by:

(a) Careful supervision throughout each biennium, with due regard to changing conditions; and

(b) Promotion of more economic and efficient management of state agencies. [Amended by 2003 c.734 §11]

291.234 Department to make allotments to state officers and agencies of appropriations and funds; allotment period; exemptions. (1) The Oregon Department of Administrative Services shall make allotments to state officers and agencies of appropriations and funds pursuant to the allotment system provided for in ORS 291.234 to 291.260.

(2) For the purposes of the allotment system, each fiscal year shall be divided into

four quarterly allotment periods, beginning, respectively, on the first days of July, October, January and April. The department may prescribe a different period suited to the circumstances or may exempt agencies that have demonstrated to the department's satisfaction that the appropriate fiscal controls are in place. [Amended by 1993 c.724 §4]

291.236 Application of allotment system; controlling expenditures and encumbering of emergency, contingent, revolving and trust funds. (1) The provisions of ORS 291.234 to 291.260 relating to the allotment system shall apply to all appropriations for state officers and agencies. For this purpose "appropriation" includes standing, continuing and annual appropriations, and dedicated funds. In those cases where periodical allotments are impracticable, the Oregon Department of Administrative Services may dispense therewith and prescribe such regulations as will insure proper application and encumbering of funds.

(2) Subject to ORS 291.238, emergency or contingent funds, revolving funds and trust funds shall be subject to such regulations as the department may prescribe for controlling the expenditures and encumbering of such funds.

291.238 Expenditures without allotment prohibited; expenditures from dedicated, revolving and trust funds. (1) Except as expressly authorized in this section or ORS 291.236, no person shall incur, or order or vote to incur, any obligation against the state in excess of, or make or order or vote to make any expenditure not authorized by, an allotment. Any such obligation so incurred shall not be binding against the state, but where the obligation violates this section only for having been made in excess of an allotment, the Oregon Department of Administrative Services may authorize payment thereof from unallotted funds.

(2) Excepting as to administrative expenditures from dedicated, revolving and trust funds and to revolving funds established to provide services rendered by any state agency to other state agencies or to any body politic of the State of Oregon, expenditures from dedicated funds, revolving funds and trust funds may be made by any state agency without appropriation or allotment.

(3) No person shall make or order or vote to make any expenditure from or chargeable to a revolving fund or trust fund in excess of the amount standing to the credit of such fund or for any purpose for which such fund may not lawfully be expended.

291.240 [Repealed by 1953 c.168 §4]

291.242 Allotment required before expenditure of appropriation; submitting estimates; notice to Legislative Fiscal Office. (1) An appropriation to which the allotment system is applicable does not become available to any state agency for expenditure during any allotment period until:

(a) The agency submits to the Oregon Department of Administrative Services an estimate, in such form as the department prescribes, for the allotment period, of the amount required for each activity to be carried on during that period; and

(b) The estimate is approved, increased or decreased by the department and funds allotted therefor.

(2) At the time a state agency submits an estimate to the department under subsection (1)(a) of this section, the agency shall submit a copy of the estimate to the Legislative Fiscal Office. The department may not allot funds under subsection (1)(b) of this section until the agency submits a copy of the estimate to the Legislative Fiscal Office. [Amended by 2009 c.885 §2]

291.244 Department action on estimates. The Oregon Department of Administrative Services shall act promptly upon all estimates required by ORS 291.242. If the estimate is within the terms of the appropriation as to amount and purposes, having due regard for the probable further needs of the agency for the remainder of the term for which the appropriation was made, and if the department determines that there is a need for the estimated amount for the allotment period, the department shall approve the estimate and allot the estimated amount for expenditures. Otherwise the department shall modify the estimate so as to conform with the terms of the appropriation and the prospective needs of the agency, and shall reduce the amount allotted accordingly.

291.246 Allotments to be made for purpose or classification of expenditure prescribed in appropriation measure. Allotments shall be made according to purpose and classification of expenditures prescribed in the appropriation measure as enacted by the Legislative Assembly; provided, however, that the Oregon Department of Administrative Services may make allotments for agencies by purposes or by other classification of expenditures of amounts appropriated or authorized to be expended in appropriation measures enacted by the Legislative Assembly, whether or not such measures establish classification of expenditures. In making allotments, the department shall not authorize the expenditure of moneys for any purpose not authorized by the Act appropriating the money or authorizing it to be expended, and the funds allotted for each purpose or classi-

fication of expenditure shall be used for no other purpose or classification of expenditure. [Amended by 1963 c.182 §7]

291.248 Notice of allotment. Upon the granting of any allotment, the Oregon Department of Administrative Services shall transmit a notice of the allotment to the agency concerned.

291.250 Claims and encumbrances limited by amount and purpose of allotment. The agency shall not create any claim or encumbrance for the future disbursement of appropriated moneys unless the proposed expenditure as estimated, together with expenses theretofore paid from or encumbered against such allotment, is within the total amount and for the purposes specified in the notice of allotment transmitted to such agency.

291.252 Modification of allotment previously made; notice to Legislative Fiscal Office. (1) Upon application of or upon notice to the agency concerned, the Oregon Department of Administrative Services may at any time modify or amend any allotment previously made by the department.

(2) A modification or amendment of an allotment made under subsection (1) of this section may not reduce an allotment below the amount required to meet valid obligations or commitments previously incurred against the allotted funds, including, but not limited to, commitments for the payment of debt service as defined in ORS 291.261.

(3)(a) An agency that applies for modification or amendment of an allotment as authorized by subsection (1) of this section shall submit a copy of the application to the Legislative Fiscal Office at the same time it submits the application to the department.

(b) If the department modifies or amends an allotment upon notice to an agency as authorized by subsection (1) of this section, the department shall notify the Legislative Fiscal Office of the modification or amendment at the same time it notifies the agency. [Amended by 2009 c.1 §1; 2009 c.885 §3]

291.254 [Repealed by 2003 c.734 §25]

291.256 [Repealed by 1959 c.608 §1]

291.258 Approval of department required for establishment of new personnel position or classification. A new personnel position or classification, not provided in the budget of an agency upon which appropriations have been based, may not be established without prior approval of the Oregon Department of Administrative Services. The department shall notify the Legislative Fiscal Office of establishment of any new personnel position or classification. [Amended by 2016 c.117 §26]

291.260 Approving, modifying or disapproving requests and budgets to be submitted to the federal government. (1) At the request of the Oregon Department of Administrative Services, before a state agency makes requests or prepares budgets to be submitted to the federal government for funds, equipment, material or services, other than for highway purposes, the agency shall submit the request or budget to the department.

(2) The department may approve, disapprove, modify or amend the request or budget before it is submitted to the proper federal authority.

(3) The requirements of this section are in addition to the requirements of ORS 291.375 and 293.550. [Amended by 2016 c.117 §27]

291.261 Reducing allotment to prevent deficit; exception. (1) Notwithstanding the legislative policy and intent declared in ORS 291.232, if the Oregon Department of Administrative Services declares at any time during a biennium that there is a projected deficit in that biennium, the department may, with the approval of the Governor and in order to prevent the deficit, reduce the amount allotted to state agencies under ORS 291.234 to 291.260 from the General Fund in the manner provided in subsection (2) of this section.

(2)(a) In reducing allotments under this section, the department and the Governor shall follow legislative funding priorities as expressed in statutes and in the legislatively adopted or approved budget for the biennium. Unless statutes or the legislatively adopted or approved budget indicate otherwise, the department and the Governor shall assume that all General Fund appropriations have the same priority and shall reduce allotments of General Fund moneys for each state agency receiving General Fund moneys by the same percentage.

(b) The department and the Governor may not reduce allotments under this section by a total amount that exceeds the amount necessary to bring the total estimated General Fund ending balance to zero.

(3) For purposes of this section, the department may declare that there is a projected deficit if a quarterly estimate made as provided in ORS 291.342 indicates that the projected balance in the General Fund at the end of the biennium will be less than zero.

(4) Subsections (1) to (3) of this section do not apply to an allotment, or a portion of an allotment, that is designated by a state agency for the payment of debt service. After an allotment that is designated by a state agency for the payment of debt service is made, the department and the Governor may not reduce the allotment or a portion of the

allotment below the amount needed for the payment of debt service in the biennium.

(5) As used in this section:

(a) "Agreement for exchange of interest rates" has the meaning given that term in ORS 286A.001.

(b) "Bond" has the meaning given that term in ORS 286A.001.

(c) "Credit enhancement device" has the meaning given that term in ORS 286A.001.

(d) "Payment of debt service" means:

(A) The payment of principal, interest or other amounts owed under a bond;

(B) The transfer, segregation or other disposition of moneys to comply with bond payment amounts or required reserve amounts; or

(C) The payment of amounts owed under an agreement for exchange of interest rates, a credit enhancement device or a similar instrument. [2003 c.734 §12; 2009 c.1 §2]

Note: 291.261 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 291 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

291.262 [1963 c.182 §6; 1965 c.111 §1; repealed by 1969 c.488 §3]

291.263 Vacant positions; information to Oregon Department of Administrative Services; report to Legislative Fiscal Officer. (1) As used in this section, "state agency" includes any state officer, department, board, commission or court, the Legislative Assembly, its committees, officers and employees.

(2) A state agency shall inform the Oregon Department of Administrative Services of any position that has remained vacant for a continuous period of six months by including a report on the position in the estimate submitted to the department under ORS 291.242. The department may consider the vacancy in its determinations under ORS 291.244 and may reduce the amount allotted to the state agency.

(3) The department shall, on or before February 1 of each year, provide a report to the Legislative Fiscal Officer of any position that has remained vacant for a continuous period of at least six months. The department shall include in the report the amount and source of funds for the position. For each position included on a previous report under this subsection, the department shall notify the Legislative Fiscal Officer of conditions that affect the position, including recruitment actions, filling the position or using the position for purposes other than what was anticipated in the legislatively approved budget. The Legislative Fiscal Officer shall re-

view the list and make recommendations on adjustments to agency position authority to the Joint Committee on Ways and Means. [2001 c.858 §1; 2003 c.803 §11; 2017 c.746 §2]

Note: 291.263 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 291 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

ALLOCATION OF GOVERNMENTAL SERVICE EXPENSES

291.272 Definitions for ORS 291.272 to 291.278. As used in ORS 291.272 to 291.278, unless the context requires otherwise:

(1) "Governmental service expenses" means the expenses of state government that are attributable to the operation, maintenance, administration and support of state government generally, and includes the following:

(a) Administrative expenditures of the Oregon Department of Administrative Services supported out of the General Fund.

(b) Sixty percent of the administrative expenditures of the Legislative Assembly out of moneys appropriated from the General Fund, and all of the expenditures incurred in the administration of the duties of the Emergency Board.

(c) Sixty percent of the administrative expenditures incurred by the Legislative Fiscal Office out of moneys appropriated from the General Fund in the administration of the duties of the Joint Committee on Ways and Means and the Emergency Board.

(d) Sixty percent of the administrative expenditures incurred out of moneys appropriated from the General Fund in the administration of the duties of the Legislative Counsel Committee.

(e) Seventy-five percent of the administrative expenditures of the Office of the Governor incurred out of moneys appropriated from the General Fund.

(2) "State agency" means every state officer, board, commission, department, institution, branch or agency of the state government, whose costs are paid wholly or in part from funds held in the State Treasury, and includes the Legislative Assembly, the courts and their officers and committees. [1967 c.637 §2; 1973 c.439 §9; 1983 c.385 §1; 1985 c.565 §45; 1991 c.112 §1; 2013 c.722 §46; 2016 c.117 §28]

291.274 Determination of funds and appropriations to be assessed. The Oregon Department of Administrative Services shall determine and may at any time redetermine which state funds or appropriations shall be assessed a reasonable share of governmental service expenses. In determining or redetermining the funds that shall be so assessed:

(1) A fund consisting of moneys the use of which is restricted by the Oregon Constitution shall be assessed only those governmental service expenses ascertained as being necessarily incurred in connection with the purposes set forth in the Oregon Constitution.

(2) Trust funds shall be assessed only those governmental service expenses ascertained as being necessarily incurred in connection with the purposes for which the trust fund was established. [1967 c.637 §3]

291.276 Department allocation of governmental service expenses among state agencies. (1) With respect to each biennium beginning on July 1 of an odd-numbered year, the Oregon Department of Administrative Services shall allocate among all state agencies the governmental service expenses, as determined by the department in accordance with ORS 291.272, for the biennium ending two years prior to the beginning of the biennium for which the allocation is made.

(2) The department, in accordance with the procedures and methods prescribed under subsection (3) of this section, shall determine and may at any time redetermine the reasonable share of governmental service expenses to be assessed against any fund or appropriation. Such expenses shall be a charge against any fund so designated and be considered an administrative expenditure of the agency administering the fund or appropriation.

(3) The department, with the approval of the Governor, shall prepare and prescribe the procedures and methods used in determining and redetermining the reasonable share of governmental service expenses assessed against any fund or appropriation.

(4) The department, with the approval of the Governor, may make rules necessary or proper to carry out the duties imposed upon it by ORS 291.272 to 291.278.

(5) The computation required by subsection (1) of this section shall be made by the department in advance of the biennium with respect to which the allocation is to be made. [1967 c.637 §4; 1969 c.105 §1; 2005 c.22 §213; 2016 c.117 §29]

291.278 Transfer of allocated amounts.

(1) Upon completion of the determination by the Oregon Department of Administrative Services under ORS 291.274 and 291.276, the department shall:

(a) Transfer to the Legislative Fiscal Office Operating Fund, with appropriate notice to the State Treasurer, out of moneys appropriated to each state agency, the amount of \$4 million; and

(b) After deducting the amounts specified in paragraph (a) of this subsection, transfer

to the General Fund, with appropriate notice to the State Treasurer, out of moneys appropriated to each state agency, the amount of governmental service expenses certified for the agency.

(2) In the case of a state agency that collects or receives moneys for fees, fines, licenses or taxes not by law made a part of the General Fund available for general governmental purposes, if moneys available to such state agency are not sufficient to permit the transfers under subsection (1) of this section, the department shall notify the state agency of the amount certified with respect to the state agency under ORS 291.274 and 291.276, less any amount transferred out of moneys appropriated to such state agency under subsection (1) of this section. Thereafter, until such balance has been paid into the General Fund, 10 percent of all moneys collected or received by the state agency for fees, fines, licenses or taxes not by law made a part of the General Fund available for general governmental purposes shall be:

(a) Transferred by the department to and made a part of the General Fund available for general governmental purposes if such moneys are paid to the State Treasurer by the state agency; or

(b) Paid to the State Treasurer by the state agency receiving such moneys at the time when they are received by the state agency if such moneys are authorized by law to be kept and disbursed other than by and through the State Treasurer, and be credited by the State Treasurer to and made a part of the General Fund available for general governmental purposes.

(3) The transfers and payments to the Legislative Fiscal Office Operating Fund and the General Fund required by this section shall be made notwithstanding any law that appropriates such moneys or any of them to any other purposes, and such portion so paid and transferred is not subject to any special uses thereby provided. [1967 c.637 §5; 2013 c.722 §47; 2015 c.840 §4]

291.280 [1967 c.637 §6; repealed by 2007 c.217 §12]

291.285 Payment of accounting charges from Economic Development Fund. Moneys in the Administrative Services Economic Development Fund are continuously appropriated for the payment of accounting charges of the Oregon Department of Administrative Services in order to maintain accountability of the fund. [1985 c.828 §16]

Note: 291.285 and 291.290 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 291 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

291.290 Cash account of state agency for receipts from Economic Development Fund. If a state agency is authorized to receive moneys from the Administrative Services Economic Development Fund based on approved legislative limitations, such moneys shall be deposited in a general fund cash account in the State Treasury unless funds are directed to be deposited elsewhere. If the receiving agency is not authorized by statute to have such a cash account, the Oregon Department of Administrative Services in cooperation with the State Treasurer may create a cash account in the General Fund for the receipt of these moneys. [1985 c.828 §17]

Note: See note under 291.285.

291.302 [Repealed by 1953 c.386 §9]

291.304 [Repealed by 1953 c.386 §9]

291.305 [1963 c.182 §§1,3; repealed by 2016 c.117 §75]

291.306 [Repealed by 1953 c.386 §9]

ACTS APPROPRIATING MONEY FROM GENERAL FUND

291.307 Appropriation from General Fund to constitute a credit only. An appropriation of any sum of money from the General Fund by any law shall not be considered as segregating or setting aside the amount of such appropriation from the moneys constituting the General Fund, but shall be considered and construed as constituting a credit in favor of the appropriation for the amount stated in the law making the appropriation, subject to allotment as provided in ORS 291.232 to 291.260. [Formerly 291.376]

291.308 [Repealed by 1953 c.386 §9]

291.310 [Repealed by 1953 c.386 §9]

EMERGENCY EXPENDITURES; EMERGENCY BOARD

291.322 Definitions for ORS 291.322 to 291.334. As used in ORS 291.322 to 291.334:

(1) “Emergency” means any catastrophe, disaster or unforeseen or unanticipated condition or circumstance, or abnormal change of conditions or circumstances, affecting the functions of a state agency and the expenditure requirements for the performance of these functions.

(2) “State agency” means any elected or appointed officer, board, commission, department, institution, branch or other agency of the state government. [1953 c.386 §1]

291.324 Emergency Board created. There hereby is created a joint committee composed of members of both houses of the Legislative Assembly, to be known as the Emergency Board. [1953 c.386 §2]

291.326 Powers of board concerning expenditures by state agencies. (1) The Emergency Board, during the interim be-

tween sessions of the Legislative Assembly, may exercise the following powers:

(a) Where an emergency exists, to allocate to any state agency, out of any emergency fund that may be appropriated to the Emergency Board for that purpose, additional funds beyond the amount appropriated to the agency by the Legislative Assembly, or funds to carry on an activity required by law for which an appropriation was not made.

(b) Where an emergency exists, to authorize any state agency to expend, from funds dedicated or continuously appropriated for the uses and purposes of the agency, sums in excess of the amount of the budget of the agency as approved in accordance with law.

(c) In the case of a new activity coming into existence at such a time as to preclude the possibility of submitting a budget to the Legislative Assembly for approval, to approve, or revise and approve, a budget of the money appropriated for such new activity.

(d) Where an emergency exists, to revise or amend the budgets of state agencies to the extent of authorizing transfers between expenditure classifications within the budget of an agency.

(2) No allocation, authorization or approval under subsection (1)(a), (b) or (c) of this section shall be effective unless made at a meeting at which 10 members of the board were present.

(3) The laws enacted by the Legislative Assembly making appropriations and limiting expenditures, or either, are not intended to limit the powers of the Emergency Board. [1953 c.386 §3; subsection (3) enacted as 1963 c.182 §2; 1973 c.201 §2]

291.328 Board may require presentation of evidence to support requests for action; filing of orders. (1) Before the Emergency Board makes any allocation, grants any authorization or approves any budget under ORS 291.326, the board may require a state agency to submit written evidence to justify the allocation, authorization or approval or may require the head of the agency to appear before it in support thereof.

(2) The Emergency Board may require the Director of the Oregon Department of Administrative Services to submit a written report regarding the need and justification for the allocation, authorization or approval.

(3) Upon making an allocation, granting an authorization or approving a budget, the Emergency Board shall file with the department and the Secretary of State a copy of the order of allocation, grant of authorization or approved budget. [1953 c.386 §4; 2016 c.117 §30]

291.330 Members of board; confirmation. The Emergency Board shall be composed of the President of the Senate, the Speaker of the House of Representatives, the chairpersons of the Senate and House Ways and Means Committees, eight other members of the Senate, at least four of whom shall have had some previous experience on the Ways and Means Committee, to be appointed by the President of the Senate and confirmed by a majority of all the members elected to the Senate, and eight other members of the House, at least four of whom shall have had some previous experience on the Ways and Means Committee, to be appointed by the Speaker and confirmed by a majority of all the members elected to the House. [1953 c.386 §5; 1973 c.201 §1; 1979 c.324 §1; 2007 c.695 §1]

291.332 Meetings of board; terms of members; filling vacancies on board. (1) The Emergency Board shall meet immediately upon adjournment sine die of each odd-numbered year regular session of the Legislative Assembly. The board shall meet thereafter at such times as it may determine, except that the activities of the board are suspended during the period beginning at the convening of a regular session of the Legislative Assembly and ending at the adjournment of that session.

(2)(a) The President of the Senate and the Speaker of the House of Representatives shall serve as cochairpersons of the board.

(b) The President of the Senate shall appoint members of the board from among members of the Senate. The Speaker of the House of Representatives shall appoint members from among members of the House of Representatives.

(3) The board may not transact business unless a quorum is present. A quorum consists of a majority of board members from the House of Representatives and a majority of board members from the Senate.

(4) Action by the board requires the affirmative vote of a majority of board members from the House of Representatives and a majority of board members from the Senate.

(5) The term of members of the board shall run from the adjournment of one odd-numbered year regular session to the convening of the next odd-numbered year regular session.

(6) If a vacancy occurs in the board, either the Speaker, if the legislator previously filling the position was a member of the House, or the President, if the legislator previously filling the position was a member of the Senate, shall fill the vacancy by an appointment for the unexpired term. [1953 c.386 §6; 2007 c.695 §2; 2011 c.545 §14; 2016 c.117 §31]

291.334 Assistance of Legislative Fiscal Office to board; payment of board expenses. (1) The Legislative Fiscal Office, upon request of the Emergency Board, shall furnish necessary assistance to the board.

(2) The expenses of the board, the cost of employed assistance, and other necessary expenses of the board shall be paid out of funds appropriated to the board specially for that purpose or, if no appropriation is made, out of any emergency fund that may be appropriated to the board. All claims for those expenses and cost must be approved by the cochairpersons of the board or other person authorized to approve claims, and warrants shall be drawn on the State Treasurer for the payment in the same manner as other expenses are paid. [1953 c.386 §7; 1967 c.454 §96; 1975 c.530 §7; 2016 c.117 §32]

291.336 [1957 c.382 §1; repealed by 2016 c.117 §75]

ESTIMATES OF STATE REVENUES

291.342 Annual estimation of state revenues; apportionment among counties of any state property tax levy necessary to make up deficiency; quarterly estimates. (1) By August 15 of each year, but not earlier than 90 days from the end of the regular session of the Legislative Assembly held in that calendar year, the Oregon Department of Administrative Services, with the assistance of the Department of Revenue, shall:

(a) Ascertain by computation and estimate the total amount of revenue available for state purposes for the current fiscal year; and

(b) Apportion the state tax levy on property, if any, among the several counties in the manner provided in ORS 291.445.

(2) In addition to the requirement in subsection (1) of this section, the Oregon Department of Administrative Services with the assistance of the Department of Revenue shall for each calendar quarter of the year ascertain by computation and estimate the total amount of revenue available for state purposes for the current fiscal year, as well as the amount of revenue received quarterly, cumulated throughout the biennium, and report its estimate to the Legislative Revenue Officer and to the Legislative Fiscal Officer.

(3) In carrying out its duties under subsection (2) of this section, the Oregon Department of Administrative Services shall issue quarterly a statement setting forth the methodology and assumptions used in making the revenue estimate. Nothing in this subsection requires the statement to set forth procedures used or methods used to determine either the methodology or the assumptions. [Formerly 309.510; 1971 s.s. c.5 §3; 1975 c.789 §10; 1980 c.11 §1; 2011 c.545 §21; 2012 c.107 §21]

291.344 [Formerly 309.520; 1967 c.454 §97; 1981 c.804 §83; 1991 c.220 §1; renumbered 291.445 in 1991]

291.345 Appropriation of certain excess corporate income and excise tax revenues to State School Fund. (1) For purposes of implementing Article IX, section 14 (3), of the Oregon Constitution, if revenues received by the General Fund from the corporate income and excise taxes during the biennium exceed the amount estimated to be received from such taxes for the biennium by two percent or more, the Legislative Assembly shall appropriate an amount equal to the total amount of the excess to the State School Fund established by ORS 327.008 for apportionment as provided in ORS 327.008.

(2) The amount appropriated under this section shall be in addition to the total amount of revenues the Legislative Assembly would otherwise appropriate, allocate or make available for the biennium for funding kindergarten through grade 12 public education if excess revenues described in subsection (1) of this section were not available. [2013 c.733 §1]

Note: 291.345 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 291 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

291.348 Biennial estimate of General Fund and State Lottery Fund revenues; certification to Secretary of State. (1) The Oregon Department of Administrative Services, as soon as possible after June 30 of each even-numbered year, shall ascertain the total of General Fund revenues obtained from all sources during the preceding fiscal year, so far as is practicable.

(2) The Director of the Oregon Department of Administrative Services shall certify to the total of General Fund and State Lottery Fund revenues during the preceding fiscal year as determined under subsection (1) of this section.

(3) As used in this section:

(a) "General Fund revenues" means all payments of money credited to the State Treasury that are placed or to be placed by the State Treasurer to the credit of the General Fund of the State of Oregon for general governmental purposes.

(b) "State Lottery Fund revenues" means the net proceeds of the state lottery authorized by section 4, Article XV of the Oregon Constitution. [1965 c.615 §12; 1967 c.454 §98; 1985 c.828 §18; 2016 c.117 §33]

291.349 Revenue estimate; disposition of revenue in excess of estimate. (1) As soon as practicable after adjournment sine die of the odd-numbered year regular session of the Legislative Assembly, the Oregon Department of Administrative Services shall

report to the Legislative Revenue Officer and the Legislative Fiscal Officer the estimate as of July 1 of the first year of the biennium of General Fund and State Lottery Fund revenues that will be received by the state during that biennium. The Oregon Department of Administrative Services shall base its estimate on the last forecast given to the Legislative Assembly before adjournment sine die of the odd-numbered year regular session on which the printed, adopted budget prepared in the Oregon Department of Administrative Services is based, adjusted only insofar as necessary to reflect changes in laws adopted at that session. The report shall contain the estimated revenues from corporate income and excise taxes separately from the estimated revenues from other General Fund sources. The Oregon Department of Administrative Services may revise the estimate if necessary following adjournment sine die of a special session or an even-numbered year regular session of the Legislative Assembly, but any revision does not affect the basis of the computation described in subsection (3) or (4) of this section.

(2) As soon as practicable after the end of the biennium, the Oregon Department of Administrative Services shall report to the Legislative Revenue Officer and the Legislative Fiscal Officer, or the Legislative Assembly if it is in session, the amount of General Fund revenues collected as of the last June 30 of the preceding biennium. The report shall contain the collections from corporate income and excise taxes separately from collections from other sources.

(3) If the revenues received from the corporate income and excise taxes during the biennium exceed the amounts estimated to be received from such taxes for the biennium, as estimated after adjournment sine die of the odd-numbered year regular session, by two percent or more, the total amount of that excess shall be retained in the General Fund and used, in the manner described in ORS 291.345, to provide additional funding for public education, kindergarten through grade 12.

(4) If the revenues received from General Fund revenue sources, exclusive of those described in subsection (3) of this section, during the biennium exceed the amounts estimated to be received from such sources for the biennium, as estimated after adjournment sine die of the odd-numbered year regular session, by two percent or more, there shall be credited to personal income taxpayers an amount equal to the total amount of that excess, reduced by the cost certified by the Department of Revenue under ORS 291.351 as being allocable to credits described under this subsection. The excess

amount to be credited shall be credited to personal income taxpayers in a percentage amount of prior year personal income tax liability as determined under subsection (5) of this section.

(5)(a) If there is an excess to be credited under subsection (4) of this section, on or before October 1, following the end of each biennium, the Oregon Department of Administrative Services shall determine and certify to the Department of Revenue the percentage amounts of credit for purposes of subsection (4) of this section. The percentage amounts determined shall be percentage amounts to the nearest one-tenth of a percent that will distribute the excess to be credited to personal income taxpayers.

(b) The percentage amount applicable to subsection (4) of this section shall equal the amount distributed under subsection (4) of this section divided by the estimated total personal income tax liability for all personal income taxpayers for tax years beginning in the calendar year immediately preceding the calendar year in which the excess is determined.

(c) The amount of the surplus credit under subsection (4) of this section is determined by multiplying the percentage amount determined under paragraph (b) of this subsection by the total amount of a personal income taxpayer's tax liability for the tax year beginning in the calendar year immediately preceding the calendar year in which the excess is determined in order to calculate the amount to be credited to the taxpayer.

(d) The credit shall be determined based on the tax liability as shown on the return of the taxpayer or as corrected by the Department of Revenue.

(e) The credit shall be computed after the allowance of a credit provided under ORS 316.082, 316.131 or 316.292, but before the allowance of any other credit or offset against tax liability allowed or allowable under any provision of law of this state, and before the application of estimated tax payments, withholding or other advance tax payments.

(f) For personal income taxpayers, if a credit applied against tax liability as described in paragraph (e) of this subsection reduces tax liability to zero and an amount of the credit remains unused, the remaining unused amount shall be refunded to the taxpayer. For purposes of ORS chapters 305, 314, 315 and 316, refunds issued under this paragraph are refunds of an overpayment of tax imposed under ORS chapter 316.

(g) The Department of Revenue may prescribe by rule the manner of calculating and claiming a credit if the filing status of a taxpayer changes between the tax year for which a credit may be claimed and the succeeding tax year.

(6) A refund may not be made under this section to a taxpayer if the amount of the refund is less than \$1.

(7) Not later than October 15 following the end of the biennium, the Department of Revenue shall provide information and guidance to taxpayers relating to the calculation of the credit. The department may make the information and guidance available electronically or otherwise.

(8) The Department of Revenue may adopt rules specifying the manner for issuing refunds under this section to taxpayers who filed returns for the tax year on which the credit is computed but who are not required to file returns for the year in which the credit could be claimed. [1979 c.241 §30; 1981 c.885 §1; 1985 c.828 §19; 1995 c.815 §2; 1997 c.99 §1; 1997 c.654 §4; 1999 c.23 §1; 1999 c.73 §5; 2007 c.680 §1; 2007 c.896 §3; 2009 c.58 §1; 2011 c.299 §1; 2011 c.545 §22; 2012 c.107 §22; 2013 c.123 §1; 2013 c.733 §2]

Note: 291.349 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 291 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

291.350 [1965 c.615 §13; repealed by 1971 c.544 §7]

291.351 Certification of costs. If, based on the report made under ORS 291.349 (2), an amount will be credited under ORS 291.349 (4), the Department of Revenue shall certify the costs that are incurred in calculating and administering the credits under ORS 291.349 (4). The amount of the costs certified by the department under this section may not exceed \$250,000. Costs shall be certified by the department within 15 days of the date the report under ORS 291.349 (2) is made. As used in this section, "costs" means and is limited to those costs that, absent the requirement of providing credits under ORS 291.349 (4), would not be incurred by the department. [1995 c.815 §4; 1999 c.23 §2; 2011 c.299 §3]

Note: 291.351 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 291 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

291.352 [Renumbered 293.105]

291.353 [1995 c.815 §5; repealed by 2011 c.299 §5]

291.354 [Amended by 1959 c.273 §7; 1961 c.280 §3; 1961 c.308 §2; renumbered 293.110]

291.355 [1979 c.241 §29; repealed by 2001 c.956 §4]

291.356 [Amended by 1963 c.333 §2; renumbered 293.115]

RATE OF GROWTH OF APPROPRIATIONS

291.357 Limitation on rate of growth of appropriations for general governmental purposes; exceeding limitation. (1) As used in this section, “general governmental purposes” means:

(a) Those activities defined as governmental activities under the accounting standards promulgated by the Governmental Accounting Standards Board of the Financial Accounting Foundation that are in effect on August 10, 2001; and

(b) Post-secondary educational activities that are partially funded by student tuition and fees.

(2) Each biennium, state governmental appropriations for general governmental purposes shall be no greater than eight percent of projected personal income in Oregon for the same biennium. Projected personal income shall be based on the United States Department of Commerce projections used by the Oregon Department of Administrative Services in the last forecast given to the Legislative Assembly before adjournment sine die of the odd-numbered year regular session on which the printed, adopted budget is based.

(3) For purposes of this section, the following are considered to be appropriations:

(a) An authorization, given by law, to expend moneys in a biennium;

(b) A limitation, imposed by law, on the expenditure in a biennium of moneys that are continuously appropriated; and

(c) An estimate of amounts of moneys that are continuously appropriated that will be spent in a biennium without limitation.

(4) The following appropriations are not subject to the limitation on appropriations contained in this section:

(a) Appropriations for the construction or acquisition of assets that are financed by state bonds, certificates of participation or other forms of borrowing.

(b) Appropriations of moneys received directly or indirectly from the federal government.

(c) Appropriations for fee remission programs of public universities listed in ORS 352.002.

(d) Appropriations of moneys voluntarily donated to a state agency.

(e) Appropriations of moneys from revenue increases or new revenue sources if the increases or sources result from approval of a measure by the people at an election held on or after August 10, 2001.

(f) Appropriations to fund new programs or to increase funding for existing programs if the need for new or increased funding results from approval of a measure by the people at an election held on or after August 10, 2001.

(5) The limitation on appropriations established by this section may be exceeded for a biennium if the Governor declares an emergency and three-fifths of the members serving in each house of the Legislative Assembly affirmatively vote to exceed the limitation for the biennium. [2001 c.956 §1; 2009 c.762 §53; 2011 c.545 §23; 2013 c.768 §128]

Note: 291.357 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 291 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

291.358 [Renumbered 293.120]

291.360 [Renumbered 293.125]

291.362 [Renumbered 293.130]

291.364 [Renumbered 293.135]

291.366 [Renumbered 293.140]

291.368 [Renumbered 293.145]

291.370 [Renumbered 293.150]

LEGISLATIVE REVIEW

291.371 Salary plan review by legislative review agency; approval for position reallocation; quarterly reports by state agencies. (1) As used in this section:

(a) “Legislative review agency” means the Joint Committee on Ways and Means during the period when the Legislative Assembly is in session and the Emergency Board or the Joint Interim Committee on Ways and Means during the interim period between sessions.

(b) “State agency” has the meaning given that term in ORS 291.002.

(2) Prior to making any changes in a compensation plan, the Oregon Department of Administrative Services shall submit the proposed changes to the legislative review agency. The proposed changes to be submitted to the legislative review agency include:

(a) Step pay increases;

(b) Cost of living adjustments;

(c) The addition of steps in position pay ranges;

(d) Any other actions that have an economic effect on a salary plan; and

(e) Estimates of the total cost of any salary plan changes for the current biennium and the next full biennium.

(3)(a) The Oregon Department of Administrative Services may approve the reallocation of positions or the establishment of new positions not specifically provided for in

the budget of the affected state agency if it finds that the proposed change:

(A) Can be financed by the state agency within the limits of its biennial budget and legislatively approved program;

(B) Will not produce future budgetary increases; and

(C) Conforms to legislatively approved salary policies.

(b) Proposed changes not meeting the requirements of paragraph (a) of this subsection shall be presented to the legislative review agency.

(4) State agencies shall report on a quarterly basis to the legislative review agency. Each report shall include the number of budgeted positions that have remained vacant for a continuous period of six months, including all job categories and classifications, within the state agency. The legislative review agency shall order the reporting state agency to show cause why the budgeted positions have not been filled and shall assess fully the impact the vacancies have on:

(a) The state agency's delivery of services, accounting for any seasonal fluctuation in the need for those services;

(b) The state agency's budget due to increased use of overtime;

(c) The state agency's use of temporary employees; and

(d) Employee workload. [1973 c.49 §1; 1985 c.713 §1; 1989 c.960 §1; 1993 c.724 §13; 1995 c.452 §16; 2009 c.595 §202; 2010 c.107 §1; 2012 c.107 §103; 2014 c.107 §9; 2016 c.117 §34; 2017 c.746 §3]

291.372 [Renumbered 293.155]

291.373 Reporting of substantive program changes. (1) As used in this section:

(a) "Legislatively approved budget" has the meaning given that term in ORS 291.002.

(b) "Program" means an activity or a series of related activities that a state agency performs to fulfill its constitutional or statutory duties and that is identified, by name or otherwise with particularity, in the Oregon Constitution, statutory law, a budget report or a staff measure summary for a bill prepared by the Legislative Assembly for a state agency budget that is part of the legislatively approved budget, a performance measure developed under ORS 291.110 or any other manner specified by the Legislative Assembly.

(c) "State agency" has the meaning given that term in ORS 291.002.

(2) A state agency shall report to the Director of the Oregon Department of Administrative Services, and the director shall report to the Legislative Assembly as provided in this section, any substantive change

made in a program administered by the state agency.

(3) For purposes of this section, a state agency is considered to have made a substantive change in a program if the state agency:

(a) Establishes a new program, unless the Legislative Assembly provided for establishment of the program by law or anticipated establishment of the program in the legislatively approved budget or in a budget report or staff measure summary relating to the legislatively approved budget.

(b) Eliminates an existing program, unless the Legislative Assembly provided for elimination of the program by law or anticipated elimination of the program in the legislatively approved budget or in a budget report or staff measure summary relating to the legislatively approved budget.

(c) Delays by six months or longer the establishment or elimination of a program prescribed by the Legislative Assembly by law or in a budget report on a bill.

(d) Makes changes to the operation or financing of a program by:

(A) Redesigning the program so as to affect a class of client benefit levels or provider reimbursement levels, unless the redesign consists solely of adjustments of an ongoing nature or processes that were described in written materials provided to the Legislative Assembly by the state agency during the most recent legislative session;

(B) Implementing an executive order; or

(C) Redirecting more than 10 percent of the program's funding to another purpose as allowed by an appropriation or expenditure limitation.

(e) Otherwise reorganizes or makes changes to the operation or financing of a program and the Legislative Fiscal Officer or the director determines that the changes affect one or more essential aspects of the program.

(4) Not later than 14 days after the end of each calendar quarter, a state agency shall report to the director any substantive change in a program made during the preceding calendar quarter. A state agency is not required to report under this subsection if the agency has not made a substantive change in a program during the preceding calendar quarter.

(5) Not later than 35 days after the end of each calendar quarter, the director shall report on all substantive program changes made by state agencies during the preceding calendar quarter to the President of the Senate, the Speaker of the House of Representatives and the Legislative Fiscal Officer.

The director is not required to report under this subsection if no state agencies have made a substantive change in a program during the preceding calendar quarter.

(6) If a state agency or the director fails to report a substantive program change as required under subsections (4) and (5) of this section, the state agency immediately shall report the substantive program change to the director. The director immediately shall report to the President of the Senate, the Speaker of the House of Representatives and the Legislative Fiscal Officer. The report shall identify the program change, describe why the report was not made as required by subsection (4) or (5) of this section and describe how the failure to report was identified.

(7) A state agency need not report to the director under subsection (4) of this section on any matter that the agency is required by ORS 291.371 or 291.375 to report or present to the Emergency Board, to the Joint Interim Committee on Ways and Means or to the Joint Committee on Ways and Means. [2001 c.425 §2; 2012 c.107 §9; 2016 c.117 §35]

291.374 [Amended by 1955 c.133 §1; 1955 c.672 §1; 1957 c.460 §1; 1959 c.686 §39; 1961 c.268 §13; 1961 c.485 §27; renumbered 293.160]

291.375 Legislative review of applications for federal financial assistance; submission, approval required; exemptions. (1) Prior to the submission of any application for financial assistance or grants from the United States or any agency of the United States by or on behalf of any agency of this state, the application must be submitted for legislative review in the following manner:

(a) If the application is to be submitted to the federal government when the Legislative Assembly is in session, the application shall be submitted to the Joint Committee on Ways and Means for review.

(b) If the application is to be submitted to the federal government when the Legislative Assembly is not in session, the application shall be submitted to the Emergency Board or to the Joint Interim Committee on Ways and Means for review.

(2) If the legislative agency authorized under subsection (1) of this section to review applications described therein approves the application, it may be submitted to the appropriate federal agency. If the legislative agency disapproves of the application, it may not be submitted to any federal agency unless it is or can be modified to meet the objections of the legislative agency.

(3) Notwithstanding subsection (1) of this section, the Joint Committee on Ways and Means, the Emergency Board or the Joint Interim Committee on Ways and Means may

exempt any state agency from the requirements of this section. Project grants for departmental research, organized activities related to instruction, sponsored research or other sponsored programs carried on within the public universities listed in ORS 352.002, for which no biennial expenditure limitations have been established, are exempt from the requirements of this section.

(4) The review required by this section is in addition to and not in lieu of the requirements of ORS 293.550. [1973 c.44 §1; 2007 c.911 §9; 2009 c.762 §54; 2012 c.107 §10; 2013 c.768 §123e; 2015 c.767 §93]

291.376 [Renumbered 291.307]

291.377 Report to legislative review agency of state position reclassifications.

(1) As used in this section, "legislative review agency" has the meaning given that term in ORS 291.371.

(2) The Oregon Department of Administrative Services shall submit a report each calendar quarter for review by the legislative review agency on the reclassification of state positions, including which positions were filled at the time of the reclassification and the difference in compensation that results from each reclassification. The legislative review agency shall take data reported under this subsection into account in making any appropriation or expenditure limitation recommendation or any allocation determination. [2017 c.746 §1]

Note: 291.377 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 291 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

291.378 [Amended by 1961 c.590 §1; renumbered 293.165]

291.380 [Amended by 1961 c.590 §2; renumbered 293.170]

291.385 [1977 c.85 §1; 1979 c.93 §1; 1985 c.565 §46; repealed by 2012 c.107 §100]

291.402 [Renumbered 293.205]

291.404 [Renumbered 293.210]

MASS TRANSIT ASSESSMENT

291.405 Assessment of state agencies for mass transit purposes; rates. (1) This section and ORS 291.407 allow the Oregon Department of Administrative Services to assess state agencies and to provide moneys from the assessments to mass transit districts, established under ORS 267.010 to 267.390, transportation districts, established under ORS 267.510 to 267.650, and service districts, established under ORS 451.410 to 451.610 to provide public transportation services, as reimbursement for the benefit that state government receives from the districts.

(2) State agencies subject to assessment under this section include every state officer,

board, commission, department, institution, branch or agency of the state whose costs are paid wholly or in part from funds held in the State Treasury, and include the Legislative Assembly, the state courts and their officers and committees.

(3) If the Oregon Department of Administrative Services elects to pay moneys to districts under this section and ORS 291.407, the department shall do the following:

(a) Determine what services performed for subject state agencies will be subject to assessment under this section;

(b) Determine which subject agencies have employees within each district who are performing the subject services;

(c) Determine the amount of wages paid to the agency employees for performing the subject services within each district; and

(d) Establish a rate of assessment of not more than six-tenths of one percent of the total amount of the wages determined under this subsection.

(4) When determining under subsection (3)(c) of this section the total amount of wages paid to agency employees for performing subject services within each district, the Oregon Department of Administrative Services shall include wages that are paid from federal funds only to the extent the assessment on those wages is authorized to be paid under federal regulations.

(5) Notwithstanding any other provision of this section, the Oregon Department of Administrative Services shall not establish rates or impose assessments under this section that exceed the following:

(a) The Oregon Department of Administrative Services shall not assess more from an agency than the Legislative Assembly provides the agency for purposes of this section, either directly or indirectly through its approval of budgets or through the Emergency Board, if the agency budget is approved by the Legislative Assembly from General Fund moneys.

(b) If an agency is an agency other than one described in paragraph (a) of this subsection, the Oregon Department of Administrative Services shall not assess moneys from the agency at a greater rate than the rate applicable to an agency described in paragraph (a) of this subsection.

(6) At any time it determines appropriate, the Oregon Department of Administrative Services may:

(a) Redetermine any factors necessary to perform its duties under this section; or

(b) Vary the rate under this section within the limits established under this section.

(7) After making determinations and establishing a rate under this section, the Oregon Department of Administrative Services may direct the assessment against the payrolls of subject agencies at the rate established by the department. All moneys assessed under this section shall be promptly forwarded to the Oregon Department of Administrative Services.

(8) The Oregon Department of Administrative Services shall pay any moneys it receives under this section to the State Treasurer for deposit in the account established under ORS 291.407 for use as provided in that section. [1981 c.788 §1; 1997 c.60 §1; 2003 c.51 §1; 2016 c.117 §36]

Note: 291.405 and 291.407 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 291 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

291.406 [Renumbered 293.215]

291.407 Mass Transit Assistance Account; source; distribution; assistance of Department of Transportation; exemption from parking code requirements.

(1) The Mass Transit Assistance Account is established in the General Fund of the State Treasury. The account shall consist of moneys deposited in the account under ORS 291.405 and as otherwise provided by law. The moneys in the account are continuously appropriated to the Oregon Department of Administrative Services to be used as provided in this section.

(2) The Oregon Department of Administrative Services shall distribute moneys from the account established under this section to districts described in ORS 291.405 on the last day of each calendar quarter. Subject to the limitations in this section, the amount distributed to each district shall be equal to the total assessments received by the department during the immediate preceding three months under ORS 291.405 from agencies with employees performing subject services within that district.

(3) Distributions under this section are subject to the following limitations:

(a) Except for newly formed districts, the Oregon Department of Administrative Services shall not distribute to a district during a calendar year an amount that exceeds the amount received by the district under the district's own taxes during the immediate preceding fiscal year of the district.

(b) The Oregon Department of Administrative Services shall not distribute to a newly formed district during a calendar year an amount that exceeds the amount the budget approved by the district board proposes as revenue for the district from the district's own taxes during the current fiscal year of

the district. If the district does not collect the proposed amount, the department shall make adjustments in the distributions during subsequent years to recover any amount paid under this section that is over the amount the district actually received under the district's own taxes.

(4) The limitations imposed under this section that are based on amounts received by a district under its own taxes do not include amounts received by the district from farebox revenues, federal moneys, state moneys, gifts, investments, bonds or similar moneys received by the district.

(5) The Department of Transportation shall provide the Oregon Department of Administrative Services with any information concerning a mass transit district or transportation district that the Oregon Department of Administrative Services determines necessary for the performance of its duties under this section and ORS 291.405. The Department of Transportation shall provide the information in the form and at times determined by the Oregon Department of Administrative Services.

(6) In exchange for payments authorized under this section to transit districts, the State of Oregon and its agencies shall be exempt from any parking code requirements for existing state-owned buildings, construction of new state buildings or the renovation of existing state buildings, which have been or may be established by any political subdivision within the boundaries of a transit district receiving such payments. [1981 c.788 §2]

Note: See note under 291.405.

291.408 [Amended by 1959 c.258 §1; renumbered 293.220]

291.410 [Renumbered 293.225]

291.432 [Renumbered 293.255]

291.434 [Renumbered 293.260]

291.436 [Renumbered 293.265]

291.438 [Renumbered 293.270]

291.440 [Renumbered 293.275]

291.442 [Renumbered 293.280]

291.443 [1959 c.668 §2; renumbered 293.285]

291.444 [Renumbered 293.290]

PROCEDURE FOR DETERMINING WHETHER STATE PROPERTY TAX LEVY NECESSARY

291.445 Certificate of state agency that issues general obligation bonds; certificate of state tax levy if required; effect of reduction in General Fund appropriations on debt service appropriations. (1) Before July 1 of each fiscal year, the Director of the Oregon Department of Administrative Services shall request from the appropriate state agency or division a certificate as prescribed in this section. The re-

quest shall be made by letter to the agency or division.

(2) Each state agency authorized to issue general obligation bonds that are ordinarily to be repaid from other than General Fund appropriations shall, on or before August 15 of each fiscal year:

(a) Certify to the Director of the Oregon Department of Administrative Services that the amounts available or that will become available during the current year to the bond program debt service fund to pay bond principal and interest that has accrued or will accrue during the current year are sufficient and will be sufficient to pay bond program principal and interest scheduled for payment during the current year; or

(b) Certify to the Director of the Oregon Department of Administrative Services that the amounts available or that will become available during the current year to the bond program debt service fund will not be sufficient to pay bond program principal and interest scheduled for payment during the current year. A certificate issued under this paragraph shall specify the amount of the anticipated current year deficit. The Director of the Oregon Department of Administrative Services shall review and confirm the correctness of each certification made under this paragraph.

(3) On or before August 15 of each fiscal year, the administrative division of the Oregon Department of Administrative Services that has primary responsibility for accounting for each general obligation bond program in which the bond principal and interest is ordinarily to be repaid, in whole or in part, from General Fund appropriations shall:

(a) Certify to the Director of the Oregon Department of Administrative Services that the amounts available or that will become available during the current year from General Fund appropriations to defray program bond principal and interest that has accrued or will accrue during the current year are sufficient and will be sufficient to pay program bond principal and interest scheduled for payment during the current year; or

(b) Certify to the Director of the Oregon Department of Administrative Services that the amounts available or that will become available during the current year from General Fund appropriations will not be sufficient to pay program bond principal and interest scheduled for payment during the current year. A certificate issued under this paragraph shall specify the amount of the anticipated current year deficit.

(4)(a) For a general obligation bond program for which a property tax may be levied under the Oregon Constitution, if a deficit in

funds available to pay principal and interest is certified and confirmed under subsection (2) or certified under subsection (3) of this section, the amount of the deficit, together with any deficit that is certified for any other general obligation bond program shall upon certification constitute a state tax levy on property that shall be apportioned among and charged to the several counties in that proportion which the total assessed value of all the taxable property in each county bears to the total assessed value of all the taxable property of the state as equalized.

(b) If any agency fails to make the certification under subsection (2) or (3) of this section with respect to any general obligation bond fund program, the Oregon Department of Administrative Services shall determine the amount of revenue and other funds that are available and the amount of taxes, if any, that should be levied in addition to the revenues and funds, to pay bond principal and interest under the program for the fiscal year in question. The additional amount so determined shall thereupon constitute a state tax levy on property that shall be apportioned, certified, collected and distributed as if determined and certified as a deficit by the agency. The Oregon Department of Administrative Services shall charge the agency for cost recovery for time spent on that agency's behalf.

(5) Immediately after the department has determined the amount of a state tax levy on property in accordance with subsection (4) of this section, a certificate of levy, signed by the director of the department, shall be filed in the office of the department. If no state levy is required for the fiscal or tax year, a certificate so stating and signed by the director shall be filed in the office of the department.

(6) If, for any reason, after the close of any regular session of the Legislative Assembly, it becomes necessary to reduce General Fund appropriations, General Fund appropriations for a debt service fund of a general obligation bond program described under subsection (3) of this section may not be reduced.

(7)(a) For purposes of this section, state agencies that are authorized to finance projects or programs through the issuance of general obligation bonds ordinarily to be repaid from other than General Fund appropriations are those agencies that have outstanding general obligation bonds, the debt service on which is not the subject of a General Fund appropriation in the current biennium.

(b) Each agency authorized to finance projects or programs through the issuance of general obligation bonds that are ordinarily

to be repaid from other than General Fund appropriations shall determine the amount of revenues or other funds that are available and the amount of taxes, if any, that should be levied for the ensuing year in the manner required under rules adopted by the Oregon Department of Administrative Services and make the certification required under subsection (2) of this section.

(8)(a) For purposes of this section, state agencies that are authorized to finance projects or programs through the issuance of general obligation bonds that are ordinarily to be repaid from General Fund appropriations are those agencies that have outstanding general obligation bonds, the debt service on which is the subject of a General Fund appropriation in the current biennium.

(b) Each agency authorized to finance projects or programs through the issuance of general obligation bonds ordinarily to be repaid from General Fund appropriations shall furnish any data required by the Oregon Department of Administrative Services to determine the amount of revenues or other funds that are available and the amount of taxes, if any, that should be levied for the ensuing year and the administrative division of the Oregon Department of Administrative Services that has primary responsibility for accounting shall make the determination for purposes of the making of the certification required under subsection (3) of this section. [Formerly 291.344; 1999 c.59 §75; 2005 c.22 §214; 2005 c.625 §73; 2009 c.11 §36; 2011 c.545 §24; 2015 c.767 §10; 2015 c.828 §15; 2017 c.9 §22]

291.462 [Amended by 1957 c.138 §1; 1963 c.57 §1; renumbered 293.305]

291.464 [Renumbered 293.310]

291.466 [Renumbered 293.315]

291.468 [Renumbered 293.320]

291.470 [Renumbered 293.325]

291.472 [Renumbered 293.330]

291.473 [1961 c.167 §16; renumbered 293.335]

291.474 [Renumbered 293.340]

291.476 [Renumbered 293.345]

291.478 [Renumbered 293.350]

291.480 [1955 c.261 §2; renumbered 293.355 and then 293.375]

291.492 [Renumbered 293.405]

291.494 [Renumbered 293.410]

291.496 [Renumbered 293.415]

291.498 [Renumbered 293.420]

291.500 [Renumbered 293.425]

291.502 [Renumbered 293.430]

291.504 [Renumbered 293.435]

291.506 [Renumbered 293.440]

291.508 [Amended by 1957 c.332 §1; renumbered 293.445]

291.510 [Renumbered 293.450]

291.512 [Renumbered 293.455]

291.514 [Renumbered 293.460]

- 291.516** [Amended by 1959 c.410 §8; 1959 c.543 §1; renumbered 293.465]
- 291.518** [Amended by 1959 c.543 §5; 1961 c.77 §1; renumbered 293.470]
- 291.520** [Amended by 1959 c.543 §2; 1961 c.77 §2; renumbered 293.475]
- 291.522** [Amended by 1959 c.543 §3; renumbered 293.480]
- 291.524** [Renumbered 293.485]
- 291.526** [Amended by 1955 c.316 §1; renumbered 293.490]
- 291.528** [Amended by 1955 c.316 §2; 1959 c.543 §4; renumbered 293.495]
- 291.530** [Amended by 1955 c.316 §3; renumbered 293.500]
- 291.532** [Renumbered 293.555]
- 291.534** [Renumbered 293.560]
- 291.536** [Renumbered 293.565]
- 291.538** [Renumbered 293.570]
- 291.540** [Formerly 606.220; renumbered 293.575]
- 291.548** [1957 c.139 §§1,2; 1959 c.682 §1; renumbered 293.180]
- 291.552** [Renumbered 293.605]
- 291.554** [Renumbered 293.610]
- 291.556** [Renumbered 293.615]
- 291.558** [Renumbered 291.022]
- 291.560** [Renumbered 291.024]
- 291.562** [Renumbered 291.026]
- 291.564** [Renumbered 293.620]
- 291.566** [Renumbered 293.625]
- 291.568** [Renumbered 293.630]
- 291.570** [Renumbered 293.635]
- 291.572** [Renumbered 293.640]
- 291.574** [Renumbered 293.645]
- 291.575** [1959 c.259 §1; renumbered 293.650]
- 291.576** [Amended by 1959 c.34 §1; renumbered 293.655]
- 291.578** [Amended by 1955 c.251 §1; renumbered 293.660]
- 291.602** [Repealed by 1959 c.157 §10]
- 291.604** [Amended by 1957 c.371 §1; renumbered 293.705]
- 291.606** [Amended by 1953 c.706 §2; 1957 c.371 §2; 1961 c.393 §1; 1963 c.520 §1; renumbered 293.710]
- 291.607** [1959 c.660 §14; 1961 c.508 §10; renumbered 293.715]
- 291.608** [Renumbered 293.720]
- 291.610** [Renumbered 293.735]
- 291.611** [1959 c.157 §3; renumbered 293.740]
- 291.612** [Amended by 1953 c.706 §2; 1957 c.371 §3; 1959 c.245 §1; 1961 c.375 §1; renumbered 293.745]
- 291.613** [1957 c.371 §4; renumbered 293.750]
- 291.614** [Renumbered 293.755]
- 291.616** [Renumbered 293.760]
- 291.618** [Renumbered 293.765]
- 291.620** [Renumbered 293.770]
- 291.622** [Repealed by 1953 c.530 §2]
- 291.624** [Repealed by 1953 c.530 §2]
- 291.630** [1957 c.330 §1; renumbered 293.790]
- 291.652** [Renumbered 283.210]
- 291.654** [Renumbered 283.220]
- 291.656** [Amended by 1953 c.60 §5; 1957 c.202 §2; 1961 c.167 §34; 1965 c.365 §7; renumbered 283.230]
- 291.658** [Amended by 1953 c.59 §2; 1957 c.202 §3; 1961 c.167 §35; 1965 c.365 §8; 1967 c.419 §44; renumbered 283.110]
- 291.659** [1961 c.167 §36; renumbered 283.130]
- 291.660** [Amended by 1959 c.662 §4; 1965 c.365 §9; renumbered 283.140]
- 291.662** [Amended by 1959 c.662 §5; 1965 c.365 §10; renumbered 283.150]
- 291.664** [Amended by 1959 c.662 §6; 1965 c.365 §11; renumbered 283.160]
- 291.666** [1953 c.61 §1; 1957 c.202 §4; renumbered 283.240]
- 291.668** [1953 c.61 §2; repealed by 1957 c.202 §6]
- 291.670** [1957 c.202 §7; 1965 c.365 §12; 1967 c.419 §45; renumbered 283.120]
- 291.678** [1957 c.202 §1; subsection (2) of 1965 Replacement Part enacted as 1963 c.182 §4; 1965 c.351 §3; renumbered 283.250]
- 291.702** [Amended by 1961 c.167 §37; renumbered 283.305]
- 291.704** [Renumbered 283.310]
- 291.706** [Renumbered 283.315]
- 291.708** [Amended by 1959 c.662 §19; 1967 c.419 §42; renumbered 283.320]
- 291.710** [Renumbered 283.325]
- 291.712** [Renumbered 283.330]
- 291.714** [Renumbered 283.335]
- 291.716** [Renumbered 283.340]
- 291.718** [Renumbered 283.345]
- 291.720** [Amended by 1953 c.603 §4; 1955 c.46 §1; 1959 c.662 §17; renumbered 283.350]
- 291.722** [Amended by 1959 c.662 §20; renumbered 283.355]
- 291.724** [Amended by 1955 c.260 §1; renumbered 283.390]
- 291.726** [Renumbered 283.395]

PENALTIES

291.990 Penalties. (1) If a person incurs or orders or votes to incur an obligation in violation of a provision of the statutes listed in subsection (4) of this section, the person and the sureties on the person's bond are jointly and severally liable for the violation to the person in whose favor the obligation was incurred.

(2) Upon certification by the Oregon Department of Administrative Services or the State Chief Information Officer that a state officer or employee of a state agency has failed or refused to comply with a statute listed in subsection (4) of this section or an order, rule, policy or regulation the department or the State Chief Information Officer made in accordance with the statutes listed in subsection (4) of this section, the salary of the officer or employee may not be paid until the officer or employee complies with the statute, order, rule, policy or regulation. A state officer or employee who fails to comply with a statute listed in subsection (4) of this section or with an order, rule, policy

or regulation the department or the State Chief Information Officer made in accordance with a statute listed in subsection (4) of this section is subject to discipline or termination in accordance with ORS chapter 240 or otherwise as provided by law or under the personnel rules and policies of the state agency that employs the officer or employee. The state agency that employs the officer or employee may consult with the State Chief Information Officer before imposing a disciplinary measure.

(3) A violation of a provision of a statute listed in subsection (4) of this section is a Class A violation.

(4) Subsections (1) to (3) of this section apply to ORS 84.064, 276A.203, 276A.206, 276A.223, 276A.233, 276A.236, 276A.300, 276A.303, 276A.403, 276A.406, 276A.412, 276A.415, 279A.050, 279A.140, 279A.280, 279B.270, 283.020, 283.110, 283.140, 283.143, 283.305 to 283.390, 291.001 to 291.034, 291.047, 291.201 to 291.222, 291.232 to 291.260, 291.307, 292.220 and 292.230. [Amended by 1953 c.530 §2; 1955 c.260 §2; subsections (2) and (3) of 1961 Replacement Part renumbered 293.990; 1967 c.419 §14; subsection (2) of 1965 Replacement Part renumbered 283.990; 1993 c.500 §44; 1997 c.249 §89; 1999 c.1051 §172; 2003 c.794 §246; 2005 c.121 §1; 2009 c.601 §4; 2011 c.597 §177; 2015 c.807 §45]
