

Chapter 293

1999 EDITION

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GENERAL PROVISIONS

293.075 “Encumbrances” to be defined by department. The Oregon Department of Administrative Services may adopt rules and regulations defining “encumbrances” as used in ORS chapters 291, 292 and 293 and the manner in which they are to be charged to appropriations and expenditure limitations. [1971 c.341 s.2]

GIFTS, DEVICES AND BEQUESTS

293.090 Disposition of gift, devise or bequest to state or state agency. All property given, devised or bequeathed

to the State of Oregon or to any state agency as defined in ORS 293.235 shall belong to the state and shall be devoted to the agency or purpose specified in the terms of the gift, devise or bequest. A grant to a particular agency, not otherwise specifying the purpose of the grant, shall be deemed made for the purpose of carrying out any function with which the agency is charged by law at the time the grant is made. When the grant is not made to a specific agency or the purpose of the grant is not otherwise stated, title thereto and the proceeds therefrom shall become a part of the Common School Fund, to be administered in accordance with Article VIII of the Oregon Constitution. [1979 c.143 s.1]

Note: 293.090 and 293.095 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 293 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

293.095 Effect of change in organization of state agencies on gifts, devises and bequests. The state may abolish agencies, change or transfer agency functions or rename any state agency. Notwithstanding any such action, property acquired by the state through gift, devise or bequest, when the purpose of the grant is stated or implied as provided in ORS 293.090, shall continue to be used by any successor agency for the purpose specified. If property is held in trust, a change in agency name or transfer of agency functions, including administration of a trust, shall not be deemed a deviation from the terms of the trust. [1979 c.143 s.2]

Note: See note under 293.090.

GENERAL FUND; OTHER STATE FUNDS

293.105 General Fund. Subject to ORS 293.115, the following moneys shall be placed by the State Treasurer to the credit of and shall constitute the General Fund of the State of Oregon:

- (1) All moneys arising from direct taxation and paid into the State Treasury by the several counties of the state.
- (2) All moneys arising from the imposition of any license or other fees for permission to transact any business in the state and paid into the State Treasury by any person, firm or corporation.
- (3) All moneys collected by any state officer, board, institution or commission or county officer for license or other fees exacted by law, and from sales of state products paid into the State Treasury. [Formerly 291.352]

293.110 Certain funds as part of General Fund. (1) All payments of money into the State Treasury by virtue of any statute providing for, creating, authorizing or continuing any of the funds enumerated in subsection (2) of this section shall be paid into and become a part of the General Fund.

- (2) The following funds shall be a part of the General Fund:
 - (a) Board of Dental Examiners' Fund.
 - (b) Forest Patrol Fund.
 - (c) Motor Vehicle Fund.
 - (d) Oregon State Veterinary Medical Fund.
 - (e) State Institutional Betterment Fund.
 - (f) Miscellaneous Receipts Account for the State Library.
 - (g) State Library School Library Fund.
 - (h) Tumalo Maintenance Fund.
 - (i) Administrative Services Economic Development Fund.
 - (j) All other funds created by law that are not trust funds. [Formerly 291.354; 1977 c.886 s.36; 1983 c.740 s.82; 1985 c.302 s.12; 1985 c.762 s.181]

293.115 Moneys separate and distinct from General Fund. The following moneys shall be separate and distinct from the General Fund:

- (1) Moneys paid into the State Treasury for fiduciary purposes.
- (2) Moneys by law directed and required to be placed by the State Treasurer to the credit of:
 - (a) The Agricultural College Fund principal and the interest accruing from the investment thereof.
 - (b) The Burbank Trust Fund and the interest accruing from the investment thereof.
 - (c) The Common School Fund and the interest accruing from the investment thereof.
 - (d) The Industrial Accident Fund under ORS 656.632 and the interest accruing from the investment thereof.

(e) The Consumer and Business Services Fund under ORS 705.145 and the interest accruing from the investment thereof.

(f) The Workers' Benefit Fund created in ORS 656.605 and the interest accruing from the investment thereof.

(g) The University Fund principal and the interest accruing from the investment thereof.

(h) The University of Oregon Villard Endowment Interest Fund.

(3) All sums received by the state from the federal government from forest reserves, rentals, sales of timber and other sources from forest reserves, under ORS 293.560 and the interest accruing from the investment thereof.

(4) All sums received from the five percentum of sales of public lands and apportioned under ORS 272.085 and the interest accruing from the investment thereof.

(5) All sums received from the federal government under ORS 293.565 to 293.575 under Mineral Leasing Act, Federal Flood Control Act and the Taylor Grazing Act and the interest accruing from the investment thereof.

(6) Any other trust funds created by law. [Formerly 291.356; amended by 1965 c.285 s.79; 1981 c.787 s.54; 1985 c.787 s.2; 1987 c.373 s.27; 1989 c.966 s.19; 1995 c.641 s.1]

293.120 Special fund dedication construed as an appropriation; when millage tax available. Where any law provides that the proceeds arising from the levy and collection of any millage tax or from any license or other fee exacted by law, or that the moneys derived from any source whatever other than those excepted in ORS 293.115 shall be paid into the State Treasury and by the State Treasurer placed to the credit of a special fund other than the General Fund to be used for carrying out the provisions of the particular statute creating and authorizing the same, or for any other purpose which may be authorized by law, the amount of any payments so made into the State Treasury, and the amount of any millage tax levy, shall, subject to ORS 291.238, constitute and be considered as and hereby are made an appropriation of such sums or amounts from the General Fund, for the purpose of carrying into full force and effect the specific provisions of the particular law exacting the payment of the same and providing for the payment thereof into the State Treasury, and in the same manner and to the same extent as provided in the specific provision of the particular law. The amount of any millage tax levy shall be available for the purpose for which it is levied on and after July 1 of the year when it is required to be paid into the State Treasury. [Formerly 291.358]

293.125 Department to make accounting entries and charge claims against special dedicated funds. The Oregon Department of Administrative Services shall, by appropriate entries made at monthly periods, credit the several objects with the amounts which may be received respectively from the several sources and charge against the same any claims incurred in pursuance of authority of law, in the same manner as is provided for the payment of claims against the state. [Formerly 291.360; 1967 c.454 s.99]

293.130 Information required on records of moneys deposited. The State Treasurer shall enter upon all records created by the State Treasurer for moneys paid into the State Treasury such necessary information as shall:

(1) Enable the Oregon Department of Administrative Services to credit the moneys to a fund or account in such amounts as are applicable under the law.

(2) Permit an appropriate accounting of the moneys. [Formerly 291.362; 1967 c.454 s.100; 1969 c.141 s.2; 1999 c.412 s.1]

293.135 Payment of warrants against certain special funds. All warrants issued against any special fund that is a part of the General Fund hereby are made payable out of the General Fund. Such payment shall be made by the State Treasurer to the holders of such warrants upon demand. [Formerly 291.364]

293.140 Disposition of interest on state funds. Except as otherwise provided by law, all interest received on deposits of state funds shall accrue to and become a part of the General Fund. [Formerly 291.366; 1981 c.194 s.1]

293.145 [Formerly 291.368; repealed by 1967 c.637 s.37]

293.150 [Formerly 291.370; 1967 c.454 s.101; repealed by 1967 c.637 ss.37,38]

293.155 [Formerly 291.372; repealed by 1967 c.637 s.37]

293.160 [Formerly 291.374; repealed by 1967 c.637 s.37]

293.165 Borrowing to pay warrants against General Fund. (1) If the moneys in the General Fund become exhausted, the State Treasurer shall borrow from the most advantageous sources the amounts necessary to pay all warrants drawn against the General Fund in pursuance of law. The Governor, Secretary of State and State Treasurer, jointly, shall issue certificates of indebtedness therefor. The certificates shall draw interest not to exceed the legal rate of interest until redeemed. All certificates of indebtedness shall be redeemable by the State Treasurer from the first moneys regularly accruing and credited to the General Fund.

(2) For the purposes of subsection (1) of this section, the moneys in the General Fund shall be deemed to be exhausted when there are no moneys remaining in the General Fund other than trust funds as defined in ORS 291.002 and funds whose use is restricted to particular purposes by the Constitution of Oregon or by federal law. [Formerly 291.378; 1967 c.454 s.102]

293.170 Proceeding when warrants not paid for want of funds. (1) If the General Fund becomes exhausted after the State Treasurer has borrowed the moneys as provided in ORS 293.165 and has made the transfers of surplus funds as provided in ORS 293.205 to 293.225, the State Treasurer shall, if the Governor, Secretary of State and State Treasurer deem it necessary or advisable and so direct, indorse on the warrants drawn on the General Fund, the words "Not paid for want of funds," and the State Treasurer shall register the warrants by number and by date according to the order in which they have been presented for payment. All warrants so indorsed and registered shall thereafter become payable consecutively according to the order of registration and shall draw interest payable from the General Fund, until called for payment by the State Treasurer, at the rate of five percent per year. As funds for the payment of the warrants and of the interest thereon become available, the State Treasurer shall give notice of the calling of the warrants for payment by one publication in a newspaper printed and published in Salem, Oregon.

(2) For the purposes of subsection (1) of this section, the exhaustion of the General Fund has the same meaning indicated in ORS 293.165 (2). [Formerly 291.380]

293.180 Agency petty cash fund. (1) If the appropriation for an agency or the limitation on expenditures of an agency, as enacted by the Legislative Assembly, includes an amount for a petty cash fund, the fund shall be established and administered as provided in this section.

(2) The agency for which a petty cash fund has been authorized may prepare a voucher in the amount authorized in favor of a person designated by the agency as custodian of its petty cash fund. A warrant shall be drawn for the amount of the voucher payable out of moneys appropriated for the expenditures of the agency. The designated custodian shall credit the amount of the warrant to the petty cash fund.

(3) The Oregon Department of Administrative Services may establish regulations governing the administration of petty cash funds established pursuant to this section.

(4) Subject to regulations established by the department:

(a) The designated custodian may make disbursements from the petty cash fund only when it is necessary to make an immediate cash payment which is lawfully payable from moneys appropriated to the agency.

(b) The designated custodian may hold the petty cash fund in cash or may deposit the fund to the account of the agency in any insured institution or institutions in the state authorized as a depository of state funds, or may hold part in cash and deposit the remainder.

(5) The designated custodian shall periodically submit to the appropriate warrant drawing authority verified reimbursement vouchers properly supported by evidences of disbursements from the petty cash fund. Upon allowance of the reimbursement vouchers the warrant drawing authority shall issue a warrant on the State Treasurer, in favor of the designated custodian, payable out of moneys appropriated for the expenditures of the agency. [Formerly 291.548; 1967 c.454 s.103; 1997 c.631 s.445]

293.190 Reversion of appropriations to General Fund; cancellation of budget limitations; exceptions; extensions. (1) On December 31 in each odd-numbered year, all General Fund appropriation balances as recorded on the records of the Oregon Department of Administrative Services for the prior biennium shall revert to the General Fund except for capital construction, continuing contracts, contested claims, special appropriations designated by legislative action or savings continuously appropriated to agencies under ORS 291.120.

(2) On December 31 in each odd-numbered year, all limitation balances on any separate fund or cash account in the State Treasury shall be canceled except for continuing contracts, contested claims or special limitations designated by legislative action.

(3) Notwithstanding subsections (1) and (2) of this section, under conditions which shall be described by the department by rule, upon request, an extension may be granted to allow an agency to make final analyses and corrections before an appropriation or limitation is canceled. The procedures for requesting an extension and the criteria for approving the request shall be established by the department. [1971 c.341 s.3; 1991 c.220 s.7; 1993 c.724 s.3]

TRANSFERS TO FUNDS HAVING INSUFFICIENT MONEY

293.205 Definitions for ORS 293.205 to 293.225. As used in ORS 293.205 to 293.225:

(1) "Borrowing fund" means the fund to which money is initially transferred under ORS 293.210.

(2) "Lending fund" means the fund from which money is initially transferred under ORS 293.210. [Formerly 291.402]

293.210 Transfer and retransfer of money and credit among state funds. If there is insufficient money to the credit of any fund in the State Treasury to pay the obligations against such fund and there is money to the credit of one or more other state funds which is not then required to meet the respective obligations against such funds, the State Treasurer shall transfer so much as the State Treasurer deems advisable of such money standing to the credit of the funds having excess money to the fund having insufficient money if there are or will be moneys accruing to the borrowing fund or which can be transferred to it in like manner, as provided in this section, to enable a retransfer to be made of such moneys to the credit of the lending funds from which they were so transferred in time to meet the requirements of the lending funds; but unless conditions are such at the time when the original transfer of moneys is considered as to make sure that such retransfer can be so made, the original transfer shall not be made. All such transfers of moneys from lending to borrowing funds shall be retransferred to the lending funds when or before they are needed in the lending funds. [Formerly 291.404]

293.212 When transfers to funds with insufficient moneys are authorized. (1) If the Department of Transportation determines that there is insufficient money in any of its funds to pay the obligations against that fund, the department may request the State Treasurer to transfer money from one or more other funds to the fund that has insufficient money. The treasurer shall transfer the money if:

(a) The lending fund has money that is not required at the time of the transfer to meet the obligations against the fund; and

(b) The treasurer determines that there are or will be enough moneys accruing to the borrowing fund, or which can be transferred to it, to enable a retransfer of the money to the lending fund in time to meet the requirements of the lending fund.

(2) All transfers of money under this section to a borrowing fund shall be retransferred to the lending funds when or before they are needed.

(3) The department may request transfers of money under this section regardless of whether or not the insufficiency in a fund that triggers the request was anticipated by the department. [1991 c.793 s.2]

Note: 293.212 was added to and made a part of 293.205 to 293.225 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

293.214 Lines of credit for state agency; duration; source of funding; interest. (1) Subject to the provisions of this section, a state agency may establish with the State Treasurer lines of credit for funds under its administration, upon a certificate by the agency's department head and chief financial officer to the State Treasurer representing and satisfactorily demonstrating, for the period for which a line of credit is requested, that:

(a) There will be insufficient moneys to the credit of the funds for which the line of credit is requested to meet expenses as they arise; and

(b) The agency will be entitled for expenditure of agency funds to reimbursement from federal agencies or other sources sufficient to repay, when due, all draws against the line of credit, plus interest charged to the agency.

(2) No line of credit, based upon anticipated reimbursements, shall be established more than six months in advance of a draw on the credit and draws shall be repaid to the lending fund within six months. Reimbursements must be applied against any outstanding advances on the line of credit established under this section.

(3) The State Treasurer may fund lines of credit established pursuant to this section from money to the credit of

other state funds which will not be required to meet the respective obligations of the funds during the period for which a draw under a line of credit is not repaid, as provided in ORS 293.210.

(4) All draws under a line of credit authorized by this section shall bear interest until repaid at the same rate that the moneys would have earned in the fund from which they were transferred. The interest shall be paid from the fund for which there was a draw on the line of credit.

(5) A line of credit may operate as a revolving fund, so that draws shall proportionately reduce and repayments shall proportionately increase the credit remaining under the line of credit, but at no time shall the total amount of draws against the line of credit exceed the credit limit.

(6) Every state agency for which a line of credit is established shall report promptly in writing to the State Treasurer any change in information furnished in support of the request for a line of credit.

(7) The State Treasurer may grant or deny, modify or terminate a line of credit when in the judgment of the State Treasurer it is in the best interest of the state. [1993 c.68 s.2]

Note: 293.214 was added to and made a part of 293.205 to 293.225 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

293.215 Evidencing transfers and retransfers by bookkeeping accounts and receipts. All transfers from lending to borrowing funds under ORS 293.210 shall be evidenced by proper bookkeeping accounts and by receipts made in triplicate by the State Treasurer to the credit of the lending funds. One receipt shall be kept by the State Treasurer, one shall be delivered to the Oregon Department of Administrative Services and one shall be sent to the department for whose use the lending fund is maintained. All retransfers shall be evidenced in like manner. [Formerly 291.406; 1967 c.454 s.104]

293.220 Interest on transferred moneys or credits. All moneys or credits transferred under ORS 293.210 shall bear interest, until retransferred, at such rate not less than two percent per annum as shall be agreed upon between the State Treasurer and the officer, state department, commission, or board in charge of the borrowing fund. The interest shall be payable from the borrowing fund and shall be credited to and become part of the lending fund. [Formerly 291.408]

293.225 Construction of ORS 293.205 to 293.220. ORS 293.205 to 293.220 shall not be construed as an appropriation Act and no appropriation made for any purpose shall be exceeded or increased by reason of any of the provisions of such sections, nor shall any budgetary designation be altered or affected by such sections. [Formerly 291.410]

COLLECTION OF DEBTS OWED TO STATE AGENCIES

293.227 Definitions for ORS 293.229 to 293.233. As used in ORS 293.229 to 293.233, unless the context requires otherwise:

(1) "Payment" means a voluntary amount of money paid by a debtor to a state agency or an involuntary amount of money paid by a debtor through offset or garnishment.

(2) "State agency" means any officer, board, commission, department, division or institution in the executive or administrative branch of state government. [1999 c.1092 s.1]

Note: 293.227 to 293.233 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 293 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

293.229 Liquidated and delinquent accounts of state agency; annual reports. (1) Not later than October 1 of each fiscal year, each state agency shall submit a report to the Legislative Fiscal Office that describes the status of that agency's liquidated and delinquent accounts and efforts made by that agency to collect liquidated and delinquent accounts during the previous fiscal year. The report required under this subsection shall be in a form prescribed by the Legislative Fiscal Office and shall include but not be limited to:

(a) Beginning balance and total number of all liquidated and delinquent accounts;

- (b) New liquidated and delinquent accounts added during the last preceding fiscal year;
 - (c) Total collections of liquidated and delinquent accounts;
 - (d) Total amount and total number of liquidated and delinquent accounts that have been written off;
 - (e) Total number and ending balance of all liquidated and delinquent accounts;
 - (f) Total amount of liquidated and delinquent accounts turned over to private collection agencies and total amount collected by those agencies under ORS 293.231; and
 - (g) Total number and total amount of all liquidated and delinquent accounts exempted under ORS 293.233.
- (2) The Legislative Fiscal Office shall produce an annual report not later than December 31 of each fiscal year on the status of liquidated and delinquent accounts of state agencies. The report shall be based on the reports submitted by state agencies as required in this section.
- (3) A state agency that cannot meet the reporting requirements in subsection (1) of this section for the fiscal year ending June 30, 2000, shall report to the Legislative Fiscal Office the status of the agency's progress toward meeting the reporting requirements.
- (4) All state agencies shall provide the report required by subsection (1) of this section for the fiscal year ending June 30, 2001, and every fiscal year thereafter. [1999 c.1092 s.2]

Note: See note under 293.227.

293.231 Collection of liquidated and delinquent accounts by private collection agency. (1) Except as provided in subsections (4), (5) and (6) of this section, a state agency, unless otherwise prohibited by law, shall offer for assignment every liquidated and delinquent account to a private collection agency or to the Department of Revenue as provided in ORS 293.250 not later than:

- (a) One year from the date the account was liquidated if no payment has been received on the account within that year; or
 - (b) One year from the date of receipt of the most recent payment on the account.
- (2) Nothing in subsection (1) of this section prohibits a state agency from offering for assignment a liquidated and delinquent account to a private collection agency at any time within the one-year period.
- (3) If, after a reasonable time, the private collection agency is unable to collect the account, the private collection agency shall notify the state agency that assigned the account that it has been unable to collect the account and shall relinquish the account to the state agency. A private collection agency that collects an account under this section shall be held to the same standard of service and courtesy imposed on a state agency that collects an account.
- (4) If a state agency assigns a liquidated and delinquent account to the Department of Revenue as provided in ORS 293.250, the department shall have one year from the date of liquidation to collect a payment. If the department does not collect a payment within that one-year period or if one year has elapsed since the date of receipt of the most recent payment on the account, the department shall notify the state agency. The state agency shall then immediately offer for assignment the debt to a private collection agency.
- (5) The provisions of subsection (1) of this section do not apply to a liquidated and delinquent account that is prohibited by state or federal law or regulation from assignment or collection.
- (6) Notwithstanding subsection (1) of this section, a state agency may, at its discretion, choose not to offer for assignment to a private collection agency a liquidated and delinquent account that:
- (a) Is secured by a consensual security interest in real or personal property;
 - (b) Is a court ordered judgment that includes restitution or a payment to the Department of Justice Crime Victims' Assistance Section;
 - (c) Is in litigation, including bankruptcy, arbitration and mediation;
 - (d) Is a student loan owed by a student who is attending school;
 - (e) Is owed to a state agency by a local or state government or by the federal government;
 - (f) Is owed by a debtor who is hospitalized in a state hospital as defined in ORS 162.135 or who is on public assistance as defined in ORS 411.010;
 - (g) Is owed by a debtor who is imprisoned;
 - (h) Is less than \$25, including penalties; or
 - (i) Would result in loss of federal funding if assigned.
- (7) Nothing in this section prohibits a state agency from collecting a tax offset after a liquidated and delinquent account is assigned to a private collection agency.
- (8) For the purposes of this section, a state agency shall be deemed to have offered for assignment an account if:

(a) The terms of the offer are of a type generally acceptable within the collections industry for the type of account offered for assignment; and

(b) The offer is made to a private collection agency that engages in collecting on accounts of the type sought to be assigned or is made generally available to private collection agencies through a bid or request for proposal process. [1999 c.1092 s.3]

Note: Sections 6 and 7, chapter 1092, Oregon Laws 1999, provide:

Sec. 6. Section 3 of this 1999 Act [293.231] becomes operative on January 1, 2000. [1999 c.1092 s.6]

Sec. 7. Notwithstanding section 6 of this 1999 Act, section 3 of this 1999 Act [293.231] does not apply to the Department of Revenue until July 1, 2001. [1999 c.1092 s.7]

Note: See note under 293.227.

293.233 Exemption of accounts from assignment to private collection agency; rules. (1) A state agency may use rules adopted by the Oregon Department of Administrative Services for exempting liquidated and delinquent accounts from assignment to a private collection agency. The state agency shall provide documentation and justification for exempting liquidated and delinquent accounts from assignment.

(2) The Oregon Department of Administrative Services shall adopt rules governing the procedure that a state agency may follow in exempting a liquidated and delinquent account from assignment, including but not limited to adequacy of the documentation and justification that a state agency is required to provide under this section. [1999 c.1092 s.4]

Note: See note under 293.227.

UNCOLLECTIBLE DEBTS

293.235 “State agency” defined for ORS 293.240 and 293.245. As used in ORS 293.240 and 293.245, “state agency” means any state officer, board, commission, corporation, institution, department or other state organization having power to collect state funds. [1965 c.448 s.1]

293.240 Writing off uncollectible debts due state agency. (1) If a state agency has made all reasonable efforts to collect money owed to it, including money owed on a liquidated and delinquent account that has been relinquished by a private collection agency under ORS 293.231, and has determined that such money and any interest or penalties therefor are uncollectible, in accordance with criteria for uncollectibility formulated by the agency and approved by the Secretary of State and the Attorney General, which criteria shall include the right of offset, the agency may certify to the Secretary of State the amount of the money, interest and penalties, as accurately as can be determined. The Secretary of State may require submission by the agency of all relevant evidence and other information regarding the debt and may examine such records of any other state agency which may be pertinent in determining the uncollectibility of the debt, unless such examination is prohibited by specific provisions of law (except for the secretary's duty to audit the state agency), including but not limited to ORS 314.835 and 657.665.

(2) If the Secretary of State finds that the debt is uncollectible, in accordance with the criteria for uncollectibility of money due to that state agency, the Secretary of State shall direct the agency to write off the debt on its accounts in a manner approved by the Secretary of State.

(3) This section does not apply to debts owed to a state agency for which a procedure for compromise, release, discharge, waiver, cancellation or other form of settlement thereof for reasons other than uncollectibility is by law made specially applicable to such state agency. [1965 c.448 s.2; 1971 c.604 s.3; 1991 c.567 s.3; 1999 c.1092 s.5]

293.245 Subsequent collection of debt written off under ORS 293.240. If a debt previously written off pursuant to ORS 293.240 subsequently becomes collectible, the Department of Revenue shall proceed under ORS 293.250 to collect the money due. The Department of Revenue shall credit the money so collected to the accounts or funds of the state agency to which the debt was originally owing. [1965 c.448 s.3; 1971 c.604 s.4]

RECEIVING AND HANDLING MONEYS

293.250 Collections Unit; collection and disposition of amounts due state agencies; setoff of sums due debtor; warrants. (1) There is hereby created a Collections Unit in the Department of Revenue.

(2) The Department of Revenue may render assistance in the collection of any delinquent account owing to any state officer, board, commission, corporation, institution, department or other state organization assigned by the agency to which the delinquent account is owed to the Department of Revenue for collection.

(3)(a) Subject to rules prescribed by the Oregon Department of Administrative Services for collection of delinquent accounts owing to the respective officers, departments, boards and commissions of state government, the Department of Revenue shall render assistance in such collection and shall charge such officers and agencies separately for the cost of such assistance, provided that charges shall not exceed the proceeds of collection credited to such officer or agency for the same biennium. The Department of Revenue may designate a single percentage to retain from the proceeds of collection as a charge for the cost of assistance. If the Department of Revenue finds that accounts assigned to the Department of Revenue for collection by certain officers or agencies lack sufficient information to properly and efficiently identify the debtor or that the account information must be put into a form usable by the Department of Revenue in order to efficiently provide collection services, the Department of Revenue may establish a separate percentage charge to be retained from collections for the officer or agency. The charge must reflect the average of the actual cost to provide collection services for all accounts assigned by that officer or agency. In providing assistance, the Department of Revenue shall utilize all means available to collect the delinquent accounts including the setoff of any refunds or sums due to the debtor from the Department of Revenue or any other state agency. The Department of Revenue may prescribe criteria for the kinds of accounts that may be assigned under this section, including a minimum dollar amount owed.

(b) No setoff will be made by the Department of Revenue unless the debt is in a liquidated amount.

(c) When the Department of Revenue has notified the assigning agency that a refund or other sum due to the debtor is available for setoff, the debtor may arrange with the Department of Revenue for payment of the debt in full before the setoff is made. However, the assigning agency shall not enter into any agreement with the debtor for payment of the debt before the setoff is made.

(d) At the time any setoff is made the debtor shall be notified by the Department of Revenue of its intention to apply sums due from a state agency against the debtor's delinquent account. The notice shall provide that the debtor within 30 days may request a hearing before the claimant agency. No issues at the hearing may be considered that have been litigated previously, or if the debtor after being given due notice of rights of appeal has failed to exercise them timely.

(e) All moneys received by the Department of Revenue in payment of charges made under paragraph (a) of this subsection shall be paid into the State Treasury and deposited in a miscellaneous receipts account for the Department of Revenue.

(f) Net proceeds of collections of delinquent accounts shall be credited to the account or fund of the officer or agency to which the debt was originally owing.

(4)(a) In providing assistance in the collection of any delinquent account under this section, the Department of Revenue may issue a warrant for the collection of the delinquent account. The warrant may be recorded in the County Clerk Lien Record maintained under ORS 205.130.

(b) A warrant shall not be issued under this subsection unless the debt is in a liquidated amount.

(c) The amount of any warrant issued under this subsection shall include the principal amount of the debt, any added penalties or interest attributable to the delinquent account and any costs associated with recording, indexing or service of the warrant and any satisfaction or release thereof.

(d) A warrant shall not be issued under this subsection before the debtor has been notified that the department intends to issue the warrant and of the collection action that may be taken under the warrant.

(5) Nothing in this section shall prohibit the collection of:

(a) A child or spousal support obligation as provided in ORS 25.610; or

(b) Criminal judgments that impose monetary obligations, including judgments requiring the payment of fines, costs, assessments, compensatory fines, attorney fees, forfeitures or restitution. [1971 c.604 s.2; 1977 c.603 s.1; 1979 c.442 s.1; 1987 c.758 s.14; 1989 c.519 s.7; 1995 c.512 s.1]

293.255 [Formerly 291.432; repealed by 1967 c.454 s.119]

293.260 Collection of moneys and property due to state. (1) Except as otherwise specifically provided by law, the Secretary of State shall require all persons who have received any moneys or property belonging to the state and who have not accounted therefor to settle their accounts and to return the moneys or property to the state.

(2) An account of a person who has received any moneys or property belonging to the state, certified by the Secretary of State, shall be received in evidence in any court in this state. [Formerly 291.434; 1967 c.454 s.1; 1971 c.604 s.5]

293.262 Requiring information regarding accounts; reference to legislature. (1) The Secretary of State may require any person to answer orally or in writing, under oath or affirmation, as to any facts relating to an account, presented to the Secretary of State for settlement, of a person who has received any moneys or property belonging to the state.

(2) At the request of any person interested in, and dissatisfied with the decision of the Secretary of State on an account presented to the Secretary of State for settlement, of a person who has received any moneys or property belonging to the state, the Secretary of State shall refer the account, the decision of the Secretary of State thereon and the reason for the decision to the Legislative Assembly at a session thereof. [1967 c.454 ss.3,4; 1971 c.604 s.6]

293.265 Moneys collected to be turned over to State Treasurer; return of checks or money orders; maximum amount returned set by rule; effect of indorsement "paid in full." (1) It shall be the duty of the officer or other person or agent collecting, receiving, in possession of, or having the control of any state money or other funds, contributions or donations collected or received by, and to be expended by or on behalf of the state under the approval or supervision of any state officer, board, commission, corporation, institution, department or other state organization, recognized by the laws of this state and having the power to collect and disburse state funds, to turn over all such moneys mentioned in this section collected or received by or on account of such state officer, board, commission, corporation, institution, department or other state organization, to the State Treasurer not later than one business day after collection or receipt thereof. However, the officer, board, commission, corporation, institution, department or other state organization may comply with this requirement by using a reasonable, longer period for the transmittal of particularly identified funds or categories of funds if it documents and maintains in its official files, and submits a copy of such documentation to the Division of Audits of the Secretary of State for review, information that a valid business reason exists for using a longer transmittal period and that the period is no longer than necessary to satisfy that business reason.

(2) The deposit by or on behalf of the state under the approval or supervision of any state officer, board, commission, corporation, public corporation, institution, department or other state organization of a check marked "paid in full," "payment in full," "full payment of a claim" or words of similar meaning does not establish an accord and satisfaction which binds the state or prevents the collection of the remaining amount owed upon the obligation unless an officer or employee with actual authority to settle claims has agreed in writing to accept the check as full payment of a disputed obligation.

(3) Notwithstanding the provisions of subsection (1) of this section, subject to limits on amount adopted pursuant to subsection (4) of this section, a state agency may return any bank check or money order received by the agency, whenever such bank check or money order is incomplete or the report or record applied for is not available or releasable or the payment is not owed. The agency shall keep a record of the check or money order returned, in the form prescribed by the Oregon Department of Administrative Services.

(4) After consultation with the State Treasurer, the department shall by rule limit the return, by an agency, of a bank check or money order under subsection (3) of this section to checks or money orders of less than the amount specified in the rule. [Formerly 291.436; 1969 c.141 s.3; 1979 c.74 s.1; 1989 c.205 s.1; 1997 c.122 s.1]

293.270 Record of moneys deposited under ORS 293.265; interest. (1) The State Treasurer shall create a record of the moneys deposited with the State Treasurer pursuant to ORS 293.265 and shall place all moneys so deposited, except money which forms all or part of any private donation or contribution, to the credit of appropriate funds or accounts designated by law.

(2) All money deposited with the State Treasurer which forms all or part of any private donation or contribution shall be placed by the State Treasurer in a separate trust fund for the use and benefit for which such donation or contribution was made.

(3) All interest, if any, earned by the trust fund shall inure to the benefit of the trust fund. [Formerly 291.438; 1969 c.141 s.4; 1999 c.412 s.2]

293.275 Disbursement of moneys. Disbursements of the moneys transferred or deposited pursuant to ORS 293.265 shall be made only on warrants issued in payment of authorized claims and expenses, as provided by law. Disbursements of moneys so deposited, which were placed in separate trust funds, shall be made only on warrants issued in payment of any claims or expenses authorized by the proper officers of the board, commission, corporation, institution, department, office or other state organization for whose benefit the trust fund was created. [Formerly 291.440; 1967 c.454 s.5]

293.280 Application of ORS 293.265 to 293.275. Except as otherwise provided by law, ORS 293.265 to 293.275 do not apply to:

- (1) State funds advanced to meet payrolls or to pay current expenses or emergency claims.
- (2) Federal funds the control of which is otherwise directed by federal law or regulation.
- (3) Funds of any state institution of higher learning. [Formerly 291.442]

293.285 Transfers between funds, accounts or appropriations authorized for certain interagency and intergovernmental payments. (1) Notwithstanding the provisions of ORS 293.275 or any other statute relating to interagency payments, the Oregon Department of Administrative Services may effect interagency payments for goods and services by transfer from the funds, accounts or appropriations of the agency receiving such goods or services, to the funds and accounts of the agency supplying such goods or services.

(2) The State Treasurer and the department may agree upon procedures whereby they may effect intergovernmental payments between the state and local units of government by transfer to the funds of the local unit of government entitled to receive them from the funds, accounts or appropriations from which the distribution is to be made. [Formerly 291.443; 1967 c.454 s.6; 1983 c.104 s.1]

293.290 [Formerly 291.444; 1967 c.454 s.7; 1987 c.158 s.41; repealed by 1999 c.412 s.4]

293.292 Payment for expenses incurred in bond sales. As payment for the expenses of the State Treasurer in administering bond and state debt programs, making bond sales and processing bonds and interest coupons payable from funds on deposit in the State Treasury, the State Treasurer is authorized to charge state agencies that issue such bonds for the expenses of making such bond sales and processing such bonds and bond interest coupons. Proceeds from such charges shall be deposited in the Miscellaneous Receipts Account established in the General Fund for the State Treasurer and are continuously appropriated for payment of the expenses of the office of the State Treasurer. [1971 c.161 s.3; 1999 c.1043 s.6]

293.293 Funds held in trust by court. (1) Whenever a court is required to hold funds in trust for the benefit of any party, all such funds shall be deposited with the State Treasurer in an account separate and distinct from the General Fund. Interest on such funds shall be credited to the General Fund.

(2) Notwithstanding subsection (1) of this section, if the amount in trust is \$10,000 or more, upon motion of a party, the court may order that the amount deposited with the State Treasurer be placed in an interest bearing account and that the interest be credited or paid to a party or parties, as the court deems appropriate. [1987 c.117 s.1; 1989 c.966 s.20]

Note: 293.293 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 293 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

APPROVING AND PAYING CLAIMS

(Approval)

293.295 When claim against moneys in State Treasury may be paid. A claim for payment from any moneys in the State Treasury may not be paid unless:

- (1) The claim is supported by the approval of the state agency that incurred the obligation or made the expenditure on which the claim is based;
- (2) Provision for payment of the claim is made by law and appropriation;

- (3) The obligation or expenditure on which the claim is based is authorized as provided by law; and
- (4) The claim otherwise satisfies requirements as provided by law. [1967 c.454 s.9]

293.300 No claim to be paid if disapproved by department; exceptions. Except for claims based on obligations incurred or expenditures made by the Legislative Assembly and its officers and committees, the courts and their officers and committees and the Secretary of State and State Treasurer in the performance of the functions of their constitutional offices, a claim for payment from any moneys in the State Treasury may not be paid if the claim is disapproved by the Oregon Department of Administrative Services. The department shall disapprove a claim if provision for payment thereof is not made by law and appropriation, the obligation or expenditure on which the claim is based is not authorized as provided by law or the claim does not otherwise satisfy requirements as provided by law. [1967 c.454 s.10]

293.305 [Formerly 291.462; repealed by 1967 c.454 s.119]

293.306 Forms and procedures for claims, warrants, checks and orders; notice of two-year cancellation. (1) The Oregon Department of Administrative Services may prescribe forms and procedures consistent with law for claims subject to disapproval by the department under ORS 293.300 and for the presentment, processing, approval and disapproval by state agencies and the department and drawing of warrants, checks or orders in payment of those claims. The use of forms and compliance with procedures so prescribed is required.

(2) The department shall require each warrant, check and order drawn in payment of claims to have printed thereon a statement in size equal to at least 8-point type that the warrant, check or order shall be canceled and declared void if not presented for payment within two years from the date of issuance. [1967 c.454 s.11; 1977 c.126 s.1]

293.310 [Formerly 291.464; repealed by 1967 c.454 s.119]

293.311 Requiring information regarding claims. (1) The Oregon Department of Administrative Services may require any person to answer orally or in writing, under oath or affirmation, as to any facts relating to a claim subject to disapproval by the department under ORS 293.300.

(2) The state agency that incurred the obligation or made the expenditure on which the claim is based may require any person to answer orally or in writing, under oath or affirmation, as to any facts relating to a claim not subject to disapproval by the department under ORS 293.300. [1967 c.454 s.12]

293.315 [Formerly 291.466; repealed by 1967 c.454 s.119]

293.316 Appeal of disputed claim. Any person aggrieved by the disallowance of a claim for payment of any moneys in the State Treasury, if the claim is subject to disapproval by the Oregon Department of Administrative Services under ORS 293.300, or by the state agency that incurred the obligation or made the expenditure on which the claim is based, if the claim is not subject to disapproval by the department under ORS 293.300, may appeal the disallowance by the department or agency under ORS 183.482. [1967 c.454 s.13; 1993 c.500 s.60]

293.320 [Formerly 291.468; repealed by 1967 c.454 s.119]

293.321 Limitation on time of presentment of claims. (1) A person having a claim against the state shall present the claim, with the evidence in support thereof, to the Oregon Department of Administrative Services or the state agency that incurred the obligation or made the expenditure on which the claim is based within two years after the date on which the claim accrues. However, if any federal funding arrangement requires payment of a claim within one year, that claim, with evidence in support thereof, must be presented within one year after the date on which the claim accrues.

(2) All claims, with evidence in support thereof, presented for health services under ORS 411.710 must be presented within one year after the date in which the claim accrues. [1967 c.454 s.14; 1983 c.608 s.1]

293.325 [Formerly 291.470; repealed by 1967 c.454 s.119]

293.326 When claim allowed against state as setoff. In an action or suit brought in behalf of the state, a claim

may not be allowed against the state as a setoff unless:

(1) The claim was presented to the Oregon Department of Administrative Services or the state agency that incurred the obligation or made the expenditure on which the claim is based, and approved or disapproved as provided by law; or

(2) It is proved to the satisfaction of the court that the defendant, at the time of trial, is in possession of evidence in support of the claim that the defendant could not present to the department or state agency because of absence from the state, sickness or unavoidable accident. [1967 c.454 s.15]

293.330 Designation of officer by state agency to approve disbursements. All boards, commissions, officers and heads of departments of the state authorized to approve disbursements for indebtedness or expenses may designate the secretary, or some officer of each board or commission, or some representative or deputy of such officer or head of department who is under bond to the State of Oregon to approve those disbursements, provided that the indebtedness or expense has been theretofore authorized by such board, commission, officer or head of department. Such board, commission, officer or head of department shall file with the Oregon Department of Administrative Services a statement designating such secretary, officer, representative or deputy together with a sample of the designated person's signature. [Formerly 291.472; 1967 c.454 s.16]

293.335 Designation of individual by legislative committee to approve disbursements. A statutory, standing, special or interim committee of the Legislative Assembly or either house thereof may designate one or more individuals to approve disbursements for which the indebtedness or expense has been theretofore authorized by the committee. The committee shall file with the Oregon Department of Administrative Services a statement designating the individual, together with a sample of the individual's signature. [Formerly 291.473; 1999 c.117 s.8]

293.340 [Formerly 291.474; repealed by 1967 c.454 s.119]

293.341 References to voucher claims as references to disbursements; filing designations with department. Notwithstanding any other provision of law:

(1) Any reference in any general or specific statute to voucher claims for indebtedness or expenses authorized by any state agency and to approval of those voucher claims is intended to be and shall be considered a reference to disbursements for the indebtedness or expenses and to approval of those disbursements.

(2) Any requirement that a statement designating an individual to approve voucher claims referred to in subsection (1) of this section be filed with the Secretary of State is intended to be and shall be considered a requirement that the statement designating an individual to approve disbursements be filed with the Oregon Department of Administrative Services, and not with the Secretary of State. [1967 c.454 s.19]

293.345 [Formerly 291.476; repealed by 1967 c.454 s.119]

293.346 Drawing warrants. Warrants shall be drawn in payment of claims for payment from any moneys in the State Treasury. All warrants shall be drawn by the Oregon Department of Administrative Services, and ORS 291.015 (2) does not apply to the drawing of warrants by the department. [1967 c.454 s.20; 1971 c.80 s.1; 1993 c.741 s.27]

293.348 Charging and billing state agencies for expense of drawing and processing warrants. The Oregon Department of Administrative Services may charge state agencies for the drawing of warrants and processing of receipts and transfers. The amount so charged shall be billed to state agencies at least quarterly, and the proceeds from such charges shall be deposited in the Oregon Department of Administrative Services Operating Fund established by ORS 283.076. [1971 c.174 s.2; 1993 c.500 s.45a]

Note: 293.348 was added to and made a part of ORS chapter 293 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

293.350 [Formerly 291.478; repealed by 1967 c.454 s.119]

293.351 [1967 c.454 s.21; repealed by 1971 c.80 s.8]

293.353 Payment for expense of processing banking-related transactions. (1) As payment for expenses of processing banking-related transactions, the State Treasurer may charge each state agency having such transactions involving the State Treasury. The amount so charged shall be determined by the number of transactions processed by the State Treasurer and shall be paid in the manner determined by the State Treasurer to be most efficient and cost effective. The proceeds from such charges shall be deposited in the Miscellaneous Receipts Account established in the General Fund for the State Treasurer, and such proceeds are continuously appropriated for payment of expenses of the office of the State Treasurer in processing banking-related transactions.

(2) When the State Treasurer transfers the assets of the local government investment pool to the state investment fund established under ORS 293.701 (2)(o) as authorized by ORS 294.882, "state agency," as used in this section, includes local government participants in the state investment fund. [1971 c.161 s.2; 1975 c.410 s.1; 1989 c.569 s.3; 1999 c.1043 s.1]

293.355 [Formerly 291.480; renumbered 293.375]

293.356 [1967 c.454 s.22; 1983 c.740 s.83; 1993 c.500 s.61; repealed by 1993 c.741 s.147]

293.360 [1967 c.454 s.23; repealed by 1971 c.80 s.8]

293.365 [1967 c.454 s.24; repealed by 1971 c.80 s.8]

293.370 Use of facsimile signatures by department and state agencies. (1) The Oregon Department of Administrative Services may cause any warrant drawn by it, and any other state agency authorized by law to draw warrants may cause any warrant drawn by the state agency, to be signed by facsimile signature affixed by any mechanical equipment or device. The State Treasurer shall honor any warrant presented for payment so signed by facsimile signature as if signed manually.

(2) Where the use of facsimile signatures is authorized under this section, the holder or drawee of any warrant bearing or purporting to bear a facsimile signature shall be under no duty to determine the authority of the person who affixed the facsimile signature to use facsimile signatures. [1967 c.454 s.28; 1997 c.122 s.2]

293.375 Use of facsimile signatures by state officers and employees. (1) When authorized to use facsimile signatures by the administrative head of any state agency, any person authorized to sign any check, warrant or other instrument on behalf of the state agency may, in the discretion of the person, sign the check, warrant or other instrument by facsimile signature affixed by any mechanical equipment or device.

(2) Where the use of facsimile signatures is authorized under this section, the holder or drawee of any check, warrant or other instrument bearing or purporting to bear a facsimile signature shall be under no duty to determine the authority of the person who affixed the facsimile signature to use facsimile signatures. [Formerly 291.480 and then 293.355; 1997 c.122 s.3]

(Payment)

293.405 Paying out funds by State Treasurer. The State Treasurer shall:

(1) Pay, on demand, out of the State Treasury, all sums authorized by law to be so paid, if there are appropriate and sufficient funds in the treasury to pay the same, and when such sum is required to be paid out of a particular fund, it shall be paid out of such fund only.

(2) Pay all warrants drawn on the treasurer in the order in which the warrants are presented out of the appropriate fund.

(3) Pay no fund out of the treasury except in pursuance of law authorizing the payment thereof. [Formerly 291.492]

293.410 [Formerly 291.494; repealed by 1967 c.454 s.119]

293.411 [1967 c.454 s.57; repealed by 1999 c.412 s.4]

293.415 [Formerly 291.496; repealed by 1967 c.454 s.119]

293.416 [1967 c.454 s.58; repealed by 1999 c.412 s.4]

293.420 [Formerly 291.498; repealed by 1967 c.454 s.119]

293.425 [Formerly 291.500; 1967 c.454 s.59; 1971 c.79 s.1; 1977 c.126 s.2; repealed by 1993 c.694 s.39]

293.430 [Formerly 291.502; 1967 c.454 s.60; repealed by 1971 c.79 s.3]

293.435 [Formerly 291.504; 1967 c.454 s.61; repealed by 1971 c.79 s.3]

293.440 [Formerly 291.506; 1967 c.454 s.62; 1971 c.79 s.2; 1977 c.126 s.3; 1983 c.104 s.2; repealed by 1993 c.694 s.39]

293.445 Definition for ORS 293.445 to 293.460; authority to make refunds; moneys held for refund or payment to claimants; deposit; drawing checks. (1) As used in ORS 293.445 to 293.460, “agency” means any state officer, department, commission or institution.

(2) When any agency determines that moneys have been received by it in excess of the amount legally due and payable to the agency or that it has received moneys to which it has no legal interest, the agency, within three years from the date the money was paid to the agency, shall refund the excess or erroneous payment to the person who made the payment or to the person's legal representative, and such moneys hereby are continuously appropriated for such purpose.

(3) Unless otherwise provided by law, any agency having in its possession any moneys held for refund or payment to claimants or distributees, or for determination or adjustment of license fees or of other amounts due the state, may, with the consent of the State Treasurer and in accordance with rules prescribed by the State Treasurer, deposit such funds in designated accounts with the State Treasurer and make lawful payments or adjustments therefrom to proper claimants or distributees, by checks or orders drawn on the State Treasurer signed by the officer or administrative head of the agency depositing such funds.

(4) If the amount owed is less than a minimum sum established by rule of the agency authorized to make the refund, any agency by rule may provide that refunds shall be paid upon receipt of a written request from the person who paid the money or the legal representative thereof. [Formerly 291.508; 1983 c.246 s.4]

293.447 Establishment of accounts for purposes other than those in ORS 293.445 authorized. (1) With the consent of and in accordance with rules prescribed by the State Treasurer, agencies may establish accounts with the State Treasurer for purposes other than those described in ORS 293.445 (3). These accounts may be established when required by federal law or regulation or when it is impractical for the agency to use funds established with the Oregon Department of Administrative Services.

(2) Unless approved by the department, accounts established under this section shall be for deposit purposes only and the agencies shall not have authority to order disbursements from the accounts by check or order. Disbursements from these accounts for which the department has not approved check or order authority shall be made by the transfer of moneys in the account to funds for which the department may draw warrants. [1989 c.569 s.2]

293.450 Report of checks outstanding more than two years. (1) Before October 1 of each year, the agency that maintains an account pursuant to ORS 293.445 shall prepare a report pursuant to ORS 98.352 of all checks or orders drawn by it that have been outstanding for a period of more than two years prior to July 1, and that have not been paid by the State Treasurer.

(2) The report shall not include checks or orders that have already been paid pursuant to indemnity bonds.

(3) The agency shall forward the report to the Division of State Lands before November 1.

(4) The Division of State Lands shall not require the Department of Revenue to remit funds being held by the Department of Revenue prior to January 1, 1994. [Formerly 291.510; 1967 c.454 s.63; 1977 c.126 s.4; 1993 c.500 s.62; 1993 c.694 s.30; 1997 c.86 s.2]

293.455 Refusal of payment of unrepresented checks; duties of State Treasurer in transferring funds; report to Division of State Lands. (1) After October 1, the State Treasurer may refuse payment of the unrepresented checks or orders included in the report referred to in ORS 293.450. In accordance with procedures developed by the Division of

State Lands and approved by the State Treasurer, the agency shall instruct the State Treasurer to do the following:

(a) Transfer and credit the amounts of the unpresented checks or orders dedicated for general funding to the General Fund.

(b) Transfer all other funds to the Division of State Lands for deposit in the Unclaimed Property Revolving Fund within the Common School Fund Account.

(c) Transfer and credit the amounts of the unpresented checks issued under ORS chapters 316 and 317 to the Division of State Lands for deposit in the Unclaimed Property Revolving Fund within the Common School Fund Account.

(2) In each instance, the State Treasurer shall issue an official receipt for the amount so transferred or credited.

(3) If the State Treasurer pays the owner of an unpresented check or order included in the report referred to in ORS 293.450 before the funds are transferred to the division, this information shall be reported to the Division of State Lands. [Formerly 291.512; 1967 c.454 s.64; 1981 c.188 s.1; 1993 c.694 s.31; 1995 c.340 s.1; 1997 c.86 ss.3,4]

293.460 Recourse of owners of unpaid checks. The lawful owner of any check or order included in the report referred to in ORS 293.450, not presented to the State Treasurer for payment and not paid, thereafter may file a claim with the Division of State Lands in the manner provided by ORS 98.392 and 98.396. [Formerly 291.514; 1967 c.454 s.65; 1981 c.188 s.2; 1993 c.500 s.63; 1993 c.694 s.32]

293.462 Payment of overdue account charges. (1) It is the policy of the State of Oregon to pay any overdue account charges incurred by state agencies which do not promptly pay for goods and services provided by private businesses.

(2) The overdue account charges to be paid under this section shall be the same as the usual overdue account charges to the general clientele of the vendor.

(3) Moneys appropriated from the General Fund to an agency or the establishment of maximum limits for expenditures of an agency authorized to procure goods or services from private businesses shall be used to pay overdue account charges incidental to procurement of the goods or services at the rate of two-thirds of one percent per month, but not more than eight percent per annum on overdue claims.

(4) Overdue claims shall be those that have not been paid within 45 days from the latest of the following dates: The date of the receipt of the invoice, the date of the initial billing statement if no invoice is received, or the date the claim is made certain by agreement of the parties or by operation of law. However, overdue account charges shall not accrue on any purchases made by any state agency during time of civil emergency or in the event of a natural disaster which prevents the timely payment of accounts. In such instances accounts shall be paid in as timely a manner as possible.

(5) Where claims have been paid, the date of the check or warrant in payment of the claims shall be used to determine if the claim has been paid in a timely manner. It shall be rebuttably presumed that the check or warrant was correctly dated.

(6) Moneys for payment of overdue account charges shall not be provided in the biennial budget of a state agency, but agencies may make special requests to provide moneys for such charges, separately from other budget requests in accordance with rules adopted by the Oregon Department of Administrative Services.

(7) In the event overdue account charges cannot lawfully be paid from federal funds, then such charges shall be paid from any moneys available to the agency for payment of administrative expenses. If other moneys are not available to pay overdue account charges, the agency shall submit to the Legislative Assembly during a legislative session or to the Emergency Board during the interim between legislative sessions a request for moneys to pay these charges. [1979 c.406 s.2]

(Duplicate Instruments)

293.465 Definitions for ORS 293.465 to 293.485; surrender of instrument upon payment. (1) As used in ORS 293.465 to 293.485:

(a) "Instrument" means a warrant, check or order, issued by the state, or by any board, department, commission or officer of the state.

(b) "Subdivision" means any county, municipal corporation, quasi-municipal corporation, or civil or political subdivision in this state.

(2) Subject to ORS 293.470, no instrument shall be paid until such instrument, or the duplicate thereof issued under

ORS 293.475, is surrendered and delivered to the officer charged with the payment thereof, contemporaneously with payment or prior thereto. [Formerly 291.516]

293.470 Payment on lost, stolen or destroyed instruments; indemnity bonds not required. (1) An instrument may be paid without surrender or delivery thereof if the one claiming to be the lawful owner of the instrument satisfies the officer by whom payment is to be made that the instrument has been lost, stolen or destroyed prior to the claimant's having received value therefor or having negotiated the instrument, in compliance with ORS 293.475.

(2) Notwithstanding subsection (1) of this section, no person, including an officer or employee shall be required to furnish a bond of indemnity for the amount of the lost instrument in cases of destroyed, stolen or lost warrants, checks or orders, but shall be required to furnish a statement as provided in ORS 293.475. [Formerly 291.518; 1967 c.221 s.1; 1973 c.478 s.1; 1979 c.763 s.1]

293.475 Issuance of duplicate instrument; affidavit of owner, payee or representative required. (1) Upon satisfactory showing by the lawful owner of an instrument of the loss, destruction or theft of the instrument, the proper officer, board, department or commission that issued the original instrument, or the issuer's duly authorized legal successor, may issue a duplicate in lieu thereof for the same amount as the original. The duplicate shall bear the signature of the officer charged with the duty of signing instruments as of the date of issuance of the duplicate.

(2) Before a duplicate instrument is issued, the person making application for its issue shall furnish to the issuing officer a written statement signed by such person specifically alleging that the person is the lawful owner, payee or legal representative of the lawful owner or payee of the original instrument giving the date of issue, the number, amount, for what services or claim the original instrument was issued and that the original instrument has been lost, destroyed or stolen, and has not been paid. However, if the lawful owner, payee or legal representative is (a) the federal government or (b) this state or any board, department, commission or subdivision of this state, or any officer thereof in official capacity, a certificate may be furnished in lieu of an affidavit or affirmation.

(3) The officer, board, department or commission issuing the duplicate instrument shall have the duty of searching for the original instrument out of the paid instruments returned from the State Treasurer to such officer, board, department or commission. If such original instrument is found, it shall immediately be returned to the State Treasurer. The State Treasurer shall then promptly return the instrument to the presenting or payer bank for credit. The State Treasurer shall not be liable for inability to obtain credit from the presenting or payer bank for an instrument returned under this section. [Formerly 291.520; 1969 c.142 s.1; 1973 c.478 s.2; 1979 c.763 s.2; 1993 c.694 s.43]

293.480 Adoption of uniform procedure for issuing duplicate instruments. State officers, boards, departments or commissions lawfully issuing checks or orders upon the State Treasurer may adopt the uniform procedure of issuing and delivering to all parties entitled thereto duplicate checks or orders to replace those lost, stolen or destroyed, in accordance with ORS 293.475. [Formerly 291.522; 1969 c.142 s.2; 1979 c.763 s.3]

293.485 Effect of wrongful payment; liability of officer. When any instrument is paid, other than as authorized by ORS 293.465 to 293.480, such wrongful payment shall not relieve the political body issuing the instrument from liability to the true and lawful owner thereof; but the officer or person making such wrongful payment and the sureties on the official bond of the officer or person, if any, shall be responsible to the political body represented by the officer or person in making such payment, for the full amount of the loss occasioned thereby. [Formerly 291.524]

(Death of Payee)

293.490 Payment upon death of person entitled to money from state if estate not in probate. (1) Except for property described under ORS 98.304 to 98.436, and as otherwise directed by law, upon the death of any person entitled to payment of money in the State Treasury or on deposit with a state agency or officer, if the estate is not to be administered in a court having probate jurisdiction, the State Treasurer or the state agency or officer authorized to disburse the funds may pay or cause to be paid the money due, as provided in subsection (3) of this section. Except as to payment of salary or wages due a deceased state officer or employee from the State of Oregon, no payment under this section shall be made in excess of \$10,000.

(2) Notwithstanding the provisions of subsection (1) of this section, moneys on deposit with a state agency or officer representing unpaid wages collected on behalf of a person by the Bureau of Labor and Industries shall be payable pursuant to subsection (3) of this section.

(3) Payment authorized by subsection (1) of this section shall be made to the following groups of survivors of the decedent, their guardians or the conservators of their estates, in equal shares to all survivors in a group, and in the order listed, with no payment to survivors in any group if there is any survivor in any group preceding it as listed:

(a) Surviving spouse.

(b) The trustee of a revocable inter vivos trust created by the decedent, unless within six months after the decedent dies a will executed by the decedent requiring distribution of the amount to a different person is admitted to probate.

(c) In equal shares to the children of the decedent and to the issue of any deceased child by right of representation.

(d) Parents.

(e) Brothers and sisters.

(f) Nephews and nieces. [Formerly 291.526; 1965 c.401 s.1; 1973 c.823 s.125; 1979 c.763 s.4; 1981 c.594 s.2; 1989 c.171 s.39; 1993 c.694 s.33; 1995 c.290 s.1]

293.495 Procedure for payment. (1) Payment authorized by ORS 293.490 may be made only upon receipt by the State Treasurer or other state officer authorized to disburse moneys due the decedent of an affidavit from one of the survivors in a group of survivors listed in ORS 293.490 (3), that:

(a) The decedent died testate or intestate, as the case may be.

(b) The estate of the decedent will not be probated.

(c) The aggregate sums due the decedent from the State of Oregon, except for salary or wages, do not exceed the principal sum of \$10,000.

(d) The relationship of the claimants to the decedent is described in ORS 293.490 (3), specifying the particular relationship of each claimant; that there is no other survivor in the group that includes the claimants; and that there is no survivor in any group preceding the group that includes the claimants as listed in ORS 293.490 (3).

(e) The expenses of last illness and funeral of the decedent will be paid out of the moneys so paid by the State Treasurer or other disbursing officer, to the full amount thereof, if necessary.

(2) The State Treasurer or other officer making disbursement shall be under no obligation to determine the truth of the affidavit. The payment of the amount due such decedent, made in good faith to the claimants, shall constitute a full acquittance and release of the State Treasurer or other disbursing officer for the amount so paid.

(3) In the event that a warrant, check or order has been lost, stolen or destroyed, the proper survivors, as specified in ORS 293.490, may obtain payment of the amount thereof by filing with the State Treasurer or other disbursing officer a written statement in accordance with ORS 293.475. [Formerly 291.528; 1965 c.401 s.2; 1979 c.763 s.5; 1981 c.594 s.8; 1999 c.59 s.76]

293.500 Probate proceedings unnecessary; accounting to administrator. It shall not be necessary to institute probate proceedings to establish the right of any of the surviving parties named in ORS 293.490 to collect the amounts due the decedent under ORS 293.490 and 293.495; but if, after payment of such amounts, the estate of the decedent is probated, the person receiving the moneys due the decedent shall account therefor to the administrator of the estate of the decedent. [Formerly 291.530]

(Auditor of Public Accounts)

293.505 Secretary of State as Auditor of Public Accounts; claim disapproved in performance of constitutional functions not to be paid. (1) The performance of functions as provided by law by the Oregon Department of Administrative Services or any other state agency in the processing, approval and disapproval of claims for payment from any moneys in the State Treasury and in the drawing of warrants in payment thereof does not constitute or affect the performance of constitutional functions of the Secretary of State as Auditor of Public Accounts.

(2) A claim for payment from any moneys in the State Treasury may not be paid, notwithstanding approval thereof or the drawing of a warrant in payment thereof as otherwise provided by law, if the claim is disapproved by the Secretary of State in the performance of constitutional functions as Auditor of Public Accounts. [1967 c.454 s.29]

293.510 Presentment of claims to Secretary of State not required. Notwithstanding any other provision of law, the presentment of claims for payment from any moneys in the State Treasury to the Secretary of State as Auditor of Public Accounts and the audit, allowance or other approval of those claims by the Secretary of State as Auditor of Public Accounts before the drawing of warrants in payment of those claims or otherwise before payment of those claims is not required by statute. Any reference to the audit, allowance or other approval by the Secretary of State of

those claims before payment in any general or specific statute is intended to be and shall be considered a reference to the performance of constitutional functions of the Secretary of State as Auditor of Public Accounts, and is not intended to be and shall not be considered a statutory requirement that those functions be performed before payment of those claims. [1967 c.454 s.30]

293.515 Withholding salary of state official or employee failing to settle accounts or correct delinquencies or errors in audit reports; notice and hearing; exemptions. (1) In the discharge of the constitutional duties of Auditor of Public Accounts, the Secretary of State may certify to the Governor the failure of any state official or state employee:

(a) To settle accounts or render such statements as may be required with respect to the custody or disposition of public funds or other state property; or

(b) To correct any major delinquencies, deficiencies, improper procedures or errors appearing in audit reports within a reasonable time.

(2) Within 90 days of certification to the Governor under subsection (1) of this section, the state official or employee responsible shall notify the Secretary of State and the Governor, in writing, of the measures to be taken to settle accounts or render the statements under subsection (1)(a) of this section or to correct the delinquencies, deficiencies, improper procedures or errors in the audit reports. The Governor may extend the 90-day period for good cause.

(3) The Governor may issue an order requiring the state official or employee to correct any failure certified by the Secretary of State under subsection (1) of this section and may issue an order withholding the payment of the salary of the official or employee until the failure is corrected.

(4) An order issued by the Governor to withhold salary shall be entered only after notice, opportunity to be heard and hearing pursuant to the provisions of ORS 183.310 to 183.550 governing contested cases.

(5) The provisions of this section do not apply to classified employees under the State Personnel Relations Law, the Legislative Assembly, members of the judiciary or any statewide elected official. [1979 c.612 s.1]

Note: 293.515 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 293 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

ELECTRONIC FUNDS TRANSFERS

293.525 Payments to state agencies by electronic funds transfers; penalty for failure to comply. (1) Upon consultation with the State Treasurer's office, a state agency by rule may:

(a) Require that payments to the agency above designated amounts be made by electronic funds transfer. All electronic funds transfer entries through an automated clearinghouse shall follow the rules adopted by the State Treasurer that shall be substantially similar to those adopted by the National Automated Clearing House Association.

(b) In addition to any other penalty provided by law, assess a penalty not to exceed five percent of the amount of the payment for failure to comply with the agency's rules requiring payments by electronic funds transfer.

(2) As used in subsection (1) of this section:

(a) "Electronic funds transfer" is the movement of funds by nonpaper means, usually through a payment system including, but not limited to, an automated clearinghouse or the Federal Reserve's Fedwire system.

(b) "State agency" means an agency as defined by ORS 183.310 (1). [1991 c.369 ss.1,2]

Note: 293.525 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 293 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

ESCROW FUNDS OF TOBACCO PRODUCT MANUFACTURERS

293.530 Findings and purpose. (1) Cigarette smoking presents serious public health concerns to the State of Oregon and to the citizens of the State of Oregon. The Surgeon General has determined that smoking causes lung cancer, heart disease and other serious diseases, and that there are hundreds of thousands of tobacco-related deaths in the United States each year. These diseases most often do not appear until many years after the person in question begins smoking.

(2) Cigarette smoking also presents serious financial concerns for this state. Under certain health care programs, the

State of Oregon may have a legal obligation to provide medical assistance to eligible persons for health conditions associated with cigarette smoking, and those persons may have a legal entitlement to receive such medical assistance.

(3) Under those health care programs, the State of Oregon pays millions of dollars each year to provide medical assistance for persons for health conditions associated with cigarette smoking.

(4) It is the policy of the State of Oregon that financial burdens imposed on this state by cigarette smoking be borne by tobacco product manufacturers rather than by this state to the extent that such manufacturers either determine to enter into a settlement with the State of Oregon or are found culpable by the courts.

(5) On November 23, 1998, leading United States tobacco product manufacturers entered into a settlement agreement, entitled the "Master Settlement Agreement," with the State of Oregon. The Master Settlement Agreement obligates those manufacturers, in return for a release of past, present and certain future claims against them as described in the Master Settlement Agreement:

(a) To pay substantial sums to the State of Oregon (tied in part to their volume of sales);

(b) To fund a national foundation devoted to the interests of public health; and

(c) To make substantial changes in their advertising and marketing practices and corporate culture, with the intention of reducing underage smoking.

(6) It would be contrary to the policy of the State of Oregon if those tobacco product manufacturers who determine not to enter into such a settlement could use a resulting cost advantage to derive large, short-term profits in the years before liability may arise without ensuring that this state will have an eventual source of recovery from them if they are proven to have acted culpably. It is thus in the interest of the State of Oregon to require that such manufacturers establish a reserve fund to guarantee a source of compensation and to prevent such manufacturers from deriving large, short-term profits and then becoming judgment-proof before liability may arise. [1999 c.272 s.1]

Note: 293.530 to 293.535 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 293 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

293.533 Definitions. (1) "Adjusted for inflation" means increased in accordance with the formula for inflation adjustment set forth in Exhibit C to the Master Settlement Agreement.

(2)(a) "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person.

(b) For purposes of defining "affiliate":

(A) The terms "owns," "is owned" and "ownership" mean ownership of an equity interest, or the equivalent thereof, of 10 percent or more; and

(B) The term "person" means an individual, partnership, committee, association, corporation or any other organization or group of persons.

(3) "Allocable share" means Allocable Share as that term is defined in the Master Settlement Agreement.

(4)(a) "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:

(A) Any roll of tobacco wrapped in paper or in any substance not containing tobacco;

(B) Tobacco, in any form, that is functional in the product and that because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or

(C) Any roll of tobacco wrapped in any substance containing tobacco that, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (A) of this paragraph.

(b) The term "cigarette" includes "roll-your-own tobacco" (i.e., tobacco that, because of its appearance, type, packaging or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes). For purposes of this paragraph, 0.09 ounces of roll-your-own tobacco shall constitute one individual cigarette.

(5) "Master Settlement Agreement" means the settlement agreement (and related documents) entered into on November 23, 1998, by the State of Oregon and leading United States tobacco product manufacturers.

(6) "Qualified escrow fund" means an escrow arrangement with a federally or state chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least \$1 billion where such arrangement requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer who is placing the funds into escrow from using, accessing or

directing the use of the escrowed funds' principal except as consistent with ORS 293.535 (2)(b).

(7) "Released claims" means Released Claims as that term is defined in the Master Settlement Agreement.

(8) "Releasing parties" means Releasing Parties as that term is defined in the Master Settlement Agreement.

(9)(a) "Tobacco product manufacturer" means an entity that, after October 23, 1999, directly (and not exclusively through any affiliate):

(A) Manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer (except where such importer is an Original Participating Manufacturer (as that term is defined in the Master Settlement Agreement) that will be responsible for the payments under the Master Settlement Agreement with respect to such cigarettes as a result of the provisions of subsection II(mm) of the Master Settlement Agreement and that pays the taxes specified in subsection II(z) of the Master Settlement Agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States);

(B) Is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or

(C) Becomes a successor of an entity described in subparagraph (A) or (B) of this paragraph.

(b) The term "tobacco product manufacturer" does not include an affiliate of a tobacco product manufacturer unless such affiliate is itself a tobacco product manufacturer under subparagraph (a)(A), (a)(B) or (a)(C) of this paragraph.

(10) "Units sold" means the number of individual cigarettes sold in the State of Oregon by the applicable tobacco product manufacturer (whether directly or through a distributor, retailer or similar intermediary or intermediaries) during the year in question, as measured by excise taxes collected by the State of Oregon on packs (or roll-your-own tobacco containers) bearing the excise tax stamp of this state. The Department of Revenue shall promulgate such rules as are necessary to ascertain the amount of state excise tax paid on the cigarettes of such tobacco product manufacturer for each year. [1999 c.272 s.2]

Note: See note under 293.530.

293.535 Requirements. Any tobacco product manufacturer selling cigarettes to consumers within the State of Oregon (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after October 23, 1999, shall do one of the following:

(1) Become a Participating Manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or

(2)(a) Place into a qualified escrow fund by April 15 of the year following the year in question the following amounts (as such amounts are adjusted for inflation):

(A) For 1999, \$.0094241 per unit sold after October 23, 1999.

(B) For 2000, \$.0104712 per unit sold.

(C) For each of the years 2001 and 2002, \$.0136125 per unit sold.

(D) For each of the years 2003 through 2006, \$.0167539 per unit sold.

(E) For 2007 and each year thereafter, \$.0188482 per unit sold.

(b) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (a) of this subsection shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances:

(A) To pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State of Oregon or any releasing party located or residing in this state. Funds shall be released from escrow under this subparagraph in the order in which they were placed into escrow and only to the extent and at the time necessary to make payments required under such judgment or settlement;

(B) To the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than this state's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that agreement other than the inflation adjustment) had it been a Participating Manufacturer (as that term is defined in the Master Settlement Agreement), the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(C) To the extent not released from escrow under subparagraph (A) or (B) of this paragraph, funds shall be released from escrow and revert back to such tobacco product manufacturer 25 years after the date on which they were

placed into escrow.

(c) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this subsection shall annually certify to the Attorney General that it is in compliance with this subsection. The Attorney General may bring a civil action on behalf of the State of Oregon against any tobacco product manufacturer that fails to place into escrow the funds required under this subsection. Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this subsection shall:

(A) Be required within 15 days to place such funds into escrow as shall bring such manufacturer into compliance with this subsection. The court, upon a finding of a violation of this subsection, may impose a civil penalty to be paid to the General Fund of this state in an amount not to exceed five percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100 percent of the original amount improperly withheld from escrow;

(B) In the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring such manufacturer into compliance with this subsection. The court, upon a finding of a knowing violation of this subsection, may impose a civil penalty to be paid to the General Fund of this state in an amount not to exceed 15 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300 percent of the original amount improperly withheld from escrow; and

(C) In the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State of Oregon (whether directly or through a distributor, retailer or similar intermediary or intermediaries) for a period not to exceed two years. Each failure to make an annual deposit required under this section shall constitute a separate violation. [1999 c.272 s.3]

Note: See note under 293.530.

DISTRIBUTING CERTAIN FEDERAL MONEYS

293.550 Receipt and disposition generally of federal aid moneys; deposit in special fund. (1) The Governor may apply for, accept and receive, or authorize any state agency to apply for, accept and receive, financial assistance and grants from the United States or any of its agencies, subject to the terms and conditions thereof, for financing the cost of any federally sponsored program or project deemed beneficial to the State of Oregon. Applications for grants, except where precluded by federal law, shall include requests for funds adequate to accomplish the objectives of the grant proposal including moneys to pay for the audit, or audits, of the financial transactions as required by the grantor or state statutes. Moneys included in a grant award budgeted for auditing the grant or program shall not be used for any other purpose. Regulations established by the federal government relating to such grants shall be applicable to the extent they are not in conflict with state laws.

(2) The Governor may disburse or supervise the disbursement of federal aid received under the provisions of subsection (1) of this section, or the Governor may designate a state agency to disburse or supervise the disbursement of such federal aid.

(3) The Governor shall deposit money received pursuant to this section in a special fund with the State Treasurer as provided in ORS 293.265 to 293.275. The money shall be expended, pursuant to subsection (2) of this section, for the purposes for and in accordance with the terms by which it is received, subject to the provisions of subsection (5) of this section and ORS 291.260.

(4) Subsections (1) to (3) of this section shall not supersede the provisions of any special statute empowering a state agency to apply for, accept and receive federal aid for any specific purpose.

(5) Funds received under subsection (1) of this section shall be expended subject to expenditure limitations imposed on the receiving state agency by the Legislative Assembly or, in the absence of such limitations, only after approval of the Legislative Assembly or of the Emergency Board, if approval is required during the interim between sessions of the Legislative Assembly.

(6) In any case where prior approval of the authority to expend any funds available under subsection (1) of this section is imposed as a term or condition to receipt of such funds, the Legislative Assembly or the Emergency Board may approve expenditure of such funds prior to their receipt. [1965 c.11 s.1; 1967 c.57 s.1; 1979 c.456 s.1]

293.555 Receipt and disposition of moneys received from federal government in lieu of ad valorem property taxes. The State Treasurer shall receive any moneys that may be paid to the state by the United States, or any agency thereof, in lieu of ad valorem property taxes, and shall retain or transfer to the respective county treasurers the moneys

so received in compliance with the annual apportionment made by the Department of Revenue. [Formerly 291.532]

293.560 Apportionment among counties of moneys received from federal government from forest reserves.

(1) Except for a distribution charge that shall be deducted to meet expenses incurred by the Oregon Department of Administrative Services in administering this section, all sums received by the state from the United States Government as its distributive share of the amounts collected by the United States Government for forest reserve rentals, sales of timber, and other sources from forest reserves within the State of Oregon, shall, upon receipt, be distributed among the several counties in which such forest reserves are located. The distribution charge shall be 60 cents per county and is in addition to the transaction charge approved for the department during the budgetary process. The amount of the distribution charges is continuously appropriated to the department to meet expenses incurred in administering this section.

(2) The department shall ascertain from the proper United States officers having the records of receipts from forest reserves, the amount of receipts from each forest reserve in this state for each year for which money is received by the state, less the share of each forest reserve of the deduction made under subsection (1) of this section. A separate account shall be kept of the sum, less the deduction, received from each forest reserve, which sum shall be paid only to the county or counties in which the forest reserve is located. Each county shall receive such proportional amount of the sum as the area of the forest reserve included within the boundaries of the county bears to the total area of the forest reserve within the state. The department shall in all cases when possible make all computations upon the net areas of such forest reserves according to the data furnished by the federal officials. [Formerly 291.534; 1985 c.787 s.3]

293.565 Apportionment among counties of moneys received from federal government under Mineral Lands Leasing Act; Federal Mineral Leases Fund. (1) Except for a distribution charge that shall be deducted to meet expenses incurred by the Oregon Department of Administrative Services in administering this section, all funds received from the United States Government by the State of Oregon as its distributive share of the amounts collected under the provisions of the Act of Congress of February 25, 1920, 41 Stat. 437, known as the Mineral Lands Leasing Act, and any Act amendatory thereof, shall upon receipt by the State Treasurer be credited to a special fund in the State Treasury to be known as the Federal Mineral Leases Fund and shall be distributed to the counties in which such leased public lands are located. The distribution charge shall be 60 cents per county and is in addition to the transaction charge approved for the department during the budgetary process. The amount of the distribution charges is continuously appropriated to the department to meet expenses incurred in administering this section.

(2) The department shall ascertain from the proper United States officers having the records of receipts from the sources in this state for which money is received by the State of Oregon and shall segregate and pay over by warrant to the county in which the leased public mineral land is located the sums, less the deduction, so received. Where the leased public mineral land is located in more than one county of the state, each shall receive such proportionate amount of the sum as the area of the leased public mineral land included within the boundary of the county bears to the total area of the leased public mineral lands within the state. [Formerly 291.536; 1985 c.787 s.4]

293.570 Apportionment among counties of moneys received from federal government under Federal Flood Control Act; Federal Flood Control Leases Fund. (1) All funds received from the United States Government by the State of Oregon as its distributive share of the amounts collected under the Federal Flood Control Act and Acts amendatory thereof and supplemental thereto, shall upon receipt by the State Treasurer be credited to a special fund in the State Treasury to be known as the Federal Flood Control Leases Fund and shall be distributed to the counties in which the leased flood control lands from which such funds were derived are located.

(2) Prior to the distribution indicated in subsection (3) of this section, a distribution charge shall be deducted to meet expenses incurred by the Oregon Department of Administrative Services in administering this section. The distribution charge shall be 60 cents per county and is in addition to the transaction charge approved for the department during the budgetary process. The amount of the distribution charges is continuously appropriated to the department to meet expenses incurred in administering this section.

(3) The department shall ascertain from the proper United States officers having the record of receipts from such sources, the names of the counties in which the leased flood control lands from which such funds have been received are located, and shall segregate and pay over the sums, less the deduction in subsection (2) of this section, by warrant to such counties. If such lands are located in more than one county, each shall receive an amount proportionate to the area of the leased land within the county. [Formerly 291.538; 1985 c.787 s.5]

293.575 Distribution of funds received under the Taylor Grazing Act; Taylor Grazing Fund. (1) Except for a distribution charge that shall be deducted to meet expenses incurred by the Oregon Department of Administrative Services in administering this section, all funds received from the United States Government as a distributive share of the amounts collected by the United States Government under the provisions of the Act of Congress of June 28, 1934, public document No. 482, known as the Taylor Grazing Act, and any Act amendatory thereof shall, upon receipt by the State Treasurer be credited to a special fund in the State Treasury to be known as the Taylor Grazing Fund and shall be distributed to the several counties in which such public lands are located. The distribution charge shall be 60 cents per county and is in addition to the transaction charge approved for the department during the budgetary process. The amount of the distribution charges is continuously appropriated to the department to meet expenses incurred in administering this section. The department shall ascertain from the proper United States officers, having the records of receipts from grazing permits and leased public lands, the amount of receipts from such sources in this state for each year for which money is received by the state. A separate account shall be kept of the sum received from each grazing district and lease of public lands, which sum shall be segregated by the department and paid to the county in which the grazing district or leased public land is located, based on the number of animal unit months contained in the grazing district or leased public land within the county from which the moneys are collected. However, where the grazing district or leased public land is located in more than one county, each shall receive such proportional amount of the sum as the animal unit months of such grazing district or leased public land included within the boundary of such county shall bear to the total animal unit months of such grazing district or lease.

(2) As used in this section, "animal unit months" means the amount of forage required to sustain a bovine animal for one month. [Formerly 606.220 and then 291.540; 1981 c.296 s.1; 1985 c.787 s.6]

ACCOUNTING AND FISCAL REPORTING

293.590 Department to supervise state agency accounting; furnishing accounting services. (1) The Oregon Department of Administrative Services shall direct and control the accounting for all the fiscal affairs of the state government and agencies thereof, and shall provide for the maintenance of accounting records, including accounts stated in summary or in detail, for those fiscal affairs. The department is responsible for establishing and maintaining systems of accounting for state government and agencies thereof. The principles, standards and related requirements of those systems of accounting shall be as prescribed by the department and except as otherwise provided in this section shall be used by the state agencies thereof, unless otherwise directed by the department.

(2) In performing its functions under subsection (1) of this section, the department shall consult with the Secretary of State, State Treasurer and, to the extent it considers necessary or desirable, any other state agency or any federal agency.

(3) The department may, as its own facilities permit, furnish to any other state agency such accounting services (including labor), facilities and materials as are necessary, as determined by the department, for compliance by the state agency with subsection (1) of this section. The cost to the department of furnishing the services, facilities and materials, as determined by the department, shall be charged to the state agency and paid to the department in the same manner as other claims against the state agency are paid.

(4) This section is applicable to the Legislative Assembly and its officers and committees, the courts and their officers and committees and the Secretary of State and State Treasurer in the performance of the functions of their constitutional offices only at their option. [1967 c.454 s.68; 1969 c.379 s.1]

293.595 Supervision of data processing equipment for accounting system; other uses. The Oregon Department of Administrative Services shall control and supervise the acquisition, installation and use of all electronic or automatic data processing equipment to be used primarily for the purposes of the accounting records and system referred to in ORS 293.590. The adequacy and capacity of that equipment for purposes of the performance of constitutional functions of the Secretary of State as Auditor of Public Accounts shall be as determined by and under the control of the Secretary of State. The department shall authorize use of that equipment for other purposes to the extent that use for those other purposes does not conflict with use for the primary purpose of the accounting records and system. [1967 c.454 s.69]

293.600 Financial and statistical reports by state agencies. The Oregon Department of Administrative Services may require periodic and special financial and statistical reports from all state agencies, upon forms which the

department may prescribe, in order to assist the department in performing its fiscal functions. [1967 c.454 s.70]

293.605 Fiscal year. (1) The fiscal year of this state shall commence on July 1 and close on June 30 of each year. All the accounts of the Oregon Department of Administrative Services, Secretary of State and State Treasurer shall be kept and all duties of the department and those officers shall be performed with reference to the beginning and end of the fiscal year.

(2) Whenever it is provided by law that any action or proceeding of the state shall be taken with respect to a budget or tax levy for the calendar year, or for a fiscal year closing on any day other than June 30, each such action or proceeding shall be taken with respect to the fiscal year commencing on July 1 and closing on June 30. [Formerly 291.552; 1967 c.454 s.66]

293.610 [Formerly 291.554; repealed by 1967 c.454 s.119]

293.611 Accounts and records of Secretary of State as Auditor of Public Accounts. The Secretary of State shall cause to be maintained accounts and records the Secretary of State considers necessary in the performance of constitutional functions as Auditor of Public Accounts. [1967 c.454 s.72]

293.615 [Formerly 291.556; repealed by 1967 c.454 s.119]

293.616 Accounts and records of State Treasurer. The State Treasurer shall cause to be maintained accounts and records of all moneys received and disbursed by the State Treasurer. [1967 c.454 s.73]

293.620 Monthly account of and payment by custodians of state property. All persons, state institutions, commissions, commissioners, departments, boards, and state officers or agents, handling or having the custody or control of any property belonging to the state or to any state institution, board, commission, or department, shall account for and pay over to the State Treasurer monthly all moneys received from the income or rents of such property or from the sale and disposition of surplus products, useless and condemned property, with a verified itemized statement of the source from which the moneys were derived; but this section shall not be construed to include the funds belonging to educational institutions derived from tuition, matriculation or other fees charged students. [Formerly 291.564]

293.625 Statements to be rendered to Secretary of State. The Secretary of State shall from time to time require all persons receiving moneys or securities, or having the disposition or management of any property of the state, of which an account is kept in the office of the Secretary of State, to render statements thereof to the Secretary of State. All such persons shall render such statement at such time and in such form as the Secretary of State requires. [Formerly 291.566]

293.630 Date for closing accounts by persons who must make annual accounts. All officers and persons required to render annual accounts to the Secretary of State or State Treasurer shall close these accounts on June 30 of each year. [Formerly 291.568]

293.635 [Formerly 291.570; repealed by 1967 c.454 s.119]

293.640 Period covered by biennial reports. The biennial report of any state officer or agency required to be submitted to the Legislative Assembly or the Governor shall cover the biennial period closing on June 30 next preceding the regular session of the Legislative Assembly. [Formerly 291.572; 1967 c.454 s.77]

293.644 [1967 c.454 s.74; repealed by 1975 c.605 s.33]

293.645 [Formerly 291.574; repealed by 1967 c.454 s.119]

293.648 [1967 c.454 s.75; repealed by 1975 c.605 s.33]

293.650 [Formerly 291.575; 1967 c.335 s.31; repealed by 1967 c.454 s.119]

293.652 [1967 c.454 s.76; 1971 c.267 s.3; repealed by 1975 c.605 s.33]

293.655 [Formerly 291.576; 1993 c.98 s.13; repealed by 1995 c.452 s.17]

293.660 Determining date of filing or receipt of reports, claims, tax returns or remittances. (1) Any report, tax return, remittance to cover a payment or claim for credit or refund required by law to be filed with or made to the state or to a state agency, which is:

(a) Transmitted through the United States mail or by private express carrier, shall be deemed filed or received on the date shown by the cancellation mark or other record of transmittal, or on the date it was mailed or deposited for transmittal if proof satisfactory to the state or state agency establishes that the actual mailing or deposit occurred on an earlier date. If filed or received by check or draft through an automated payment processing system, including but not limited to commercial bank lockbox services, the date of filing or receipt shall be deemed to be the fifth day prior to the system processing date.

(b) Lost in transmission through the United States mail or private express carrier, shall be deemed filed and received on the date it was mailed or deposited for transmittal if the sender:

(A) Can establish by competent evidence satisfactory to the state or state agency that the report, tax return, remittance or claim for credit or refund was deposited on the date due for filing in the United States mail or with a private express carrier, and addressed correctly to the state or state agency; and

(B) Files with the state or state agency a duplicate of the lost report, return, remittance or claim within 30 days after written notification is given by the state or state agency of its failure to receive such document or remittance.

(2) As used in subsection (1) of this section, "private express carrier" means a common carrier that transports small parcels in an expedited manner and has one or more of the following characteristics:

(a) Same day pickup and delivery.

(b) Expedited pickup and delivery.

(c) Residential door-to-door pickup and delivery.

(d) Special or unique handling and packaging features designed to meet a special need. [Formerly 291.578; 1993 c.44 s.1]

INVESTING STATE FUNDS

293.701 Definitions for ORS 293.701 to 293.820. As used in ORS 293.701 to 293.820, unless the context requires otherwise:

(1) "Council" means the Oregon Investment Council.

(2) "Investment funds" means:

(a) Public Employees Retirement Fund referred to in ORS 238.660;

(b) Industrial Accident Fund referred to in ORS 656.632;

(c) Consumer and Business Services Fund referred to in ORS 705.145;

(d) Employment Department Special Administrative Fund referred to in ORS 657.822;

(e) Insurance Fund referred to in ORS 278.425;

(f) Funds under the control and administration of the Division of State Lands;

(g) Oregon Student Assistance Fund referred to in ORS 348.570;

(h) Moneys made available to the Commission for the Blind under ORS 346.270 and 346.540 or rules adopted thereunder;

(i) Forest rehabilitation bonds sinking fund referred to in ORS 530.280;

(j) Oregon War Veterans' Fund referred to in ORS 407.495;

(k) Oregon War Veterans' Bond Sinking Account referred to in ORS 407.515;

(L) World War II Veterans' Compensation Fund;

(m) World War II Veterans' Bond Sinking Fund;

(n) Savings and loan association funds in the hands of the Director of the Department of Consumer and Business Services;

(o) Funds in the hands of the State Treasurer that are not required to meet current demands;

(p) State funds that are not subject to the control and administration of officers or bodies specifically designated by law;

- (q) Funds derived from the sale of state bonds;
- (r) Social Security Revolving Account referred to in ORS 237.490;
- (s) Investment funds of the State Board of Higher Education lawfully available for investment or reinvestment;
- (t) Local Government Employer Benefit Trust Fund referred to in ORS 657.513;
- (u) Western Oregon Timber Tax Reserve Account referred to in ORS 321.299;
- (v) Elderly and Disabled Special Transportation Fund established by ORS 391.800;
- (w) Oregon Resource and Technology Development Account established by ORS 284.630;
- (x) Education Endowment Fund established by ORS 348.696; and
- (y) Deferred Compensation Fund established under ORS 243.411.

(3) "Investment officer" means the State Treasurer in the capacity as investment officer for the council. [1967 c.335 s.1; 1967 c.399 s.5; 1971 c.408 s.1; 1975 c.363 s.1a; 1975 c.471 s.1a; 1977 c.491 s.11; 1977 c.892 s.31; 1979 c.814 s.3; 1980 c.19 s.2; 1981 c.660 s.47; 1985 c.565 s.48; 1985 c.731 s.25; 1985 c.759 s.38; 1985 c.816 s.14; 1987 c.373 s.28; 1987 c.616 s.6; 1987 c.652 s.17; 1989 c.224 s.49; 1989 c.597 s.8; 1991 c.459 s.378; 1993 c.18 s.58; 1993 c.210 s.19; 1995 c.12 s.3; 1997 c.179 s.21; 1999 c.274 s.21]

Note: The amendments to 293.701 by section 67, chapter 1078, Oregon Laws 1999, become operative September 1, 2000. See section 68, chapter 1078, Oregon Laws 1999. The text that is operative on and after September 1, 2000, is set forth for the user's convenience.

293.701. As used in ORS 293.701 to 293.820, unless the context requires otherwise:

- (1) "Council" means the Oregon Investment Council.
- (2) "Investment funds" means:
 - (a) Public Employees Retirement Fund referred to in ORS 238.660;
 - (b) Industrial Accident Fund referred to in ORS 656.632;
 - (c) Consumer and Business Services Fund referred to in ORS 705.145;
 - (d) Employment Department Special Administrative Fund referred to in ORS 657.822;
 - (e) Insurance Fund referred to in ORS 278.425;
 - (f) Funds under the control and administration of the Division of State Lands;
 - (g) Oregon Student Assistance Fund referred to in ORS 348.570;
 - (h) Moneys made available to the Commission for the Blind under ORS 346.270 and 346.540 or rules adopted thereunder;
 - (i) Forest rehabilitation bonds sinking fund referred to in ORS 530.280;
 - (j) Oregon War Veterans' Fund referred to in ORS 407.495;
 - (k) Oregon War Veterans' Bond Sinking Account referred to in ORS 407.515;
 - (L) World War II Veterans' Compensation Fund;
 - (m) World War II Veterans' Bond Sinking Fund;
 - (n) Savings and loan association funds in the hands of the Director of the Department of Consumer and Business Services;
 - (o) Funds in the hands of the State Treasurer that are not required to meet current demands;
 - (p) State funds that are not subject to the control and administration of officers or bodies specifically designated by law;
 - (q) Funds derived from the sale of state bonds;
 - (r) Social Security Revolving Account referred to in ORS 237.490;
 - (s) Investment funds of the State Board of Higher Education lawfully available for investment or reinvestment;
 - (t) Local Government Employer Benefit Trust Fund referred to in ORS 657.513;
 - (u) Elderly and Disabled Special Transportation Fund established by ORS 391.800;
 - (v) Oregon Resource and Technology Development Account established by ORS 284.630;
 - (w) Education Endowment Fund established by ORS 348.696; and
 - (x) Deferred Compensation Fund established under ORS 243.411.
- (3) "Investment officer" means the State Treasurer in the capacity as investment officer for the council.

Note: Sections 8 and 12, chapter 1043, Oregon Laws 1999, provide:

Sec. 8. If the expenses of the State Treasurer for managing investment funds described in ORS 293.701 (2)(o) exceed, for any month in a calendar year, 0.25 basis points of the most recent market value of the assets under

management, the State Treasurer shall prepare a written report for that calendar year that describes and summarizes the management activities and management costs of the State Treasurer during the year. The report shall also contain a comparison of the management costs of the State Treasurer with the management costs of private persons engaged in the business of managing investment funds that have a market value comparable to the market value of the investment funds described in ORS 293.701 (2)(o). The report shall be submitted to the Governor, the Legislative Fiscal Officer, the Emergency Board and, upon request, to any other person. [1999 c.1043 s.8]

Sec. 12. Section 8 of this 1999 Act is repealed on December 31, 2001. [1999 c.1043 s.12]

293.705 [Formerly 291.604; 1965 c.285 s.63; 1967 c.399 s.1; repealed by 1967 c.335 s.60 and 1967 c.399 s.4]

293.706 Oregon Investment Council; appointment; term; vacancies. (1) There is created the Oregon Investment Council, consisting of five members, subject to Senate confirmation in the manner provided in ORS 171.562 and 171.565.

(2) One member of the council shall be a public member who serves on the Public Employees Retirement Board. Three members, who shall be qualified by training and experience in the field of investment or finance and who may not hold any other public office or employment, shall be appointed by the Governor. One member shall be the State Treasurer. In addition, the Director of the Public Employees Retirement System appointed by the board shall be an ex officio member of the council with no voting power.

(3) The term of office of each appointed non ex officio member of the council is four years, but each appointed member serves at the pleasure of the appointing authority. A vacancy in the appointed membership occurring other than by expiration of term shall be filled in the same manner as the original appointment, but for the unexpired term only. [1967 c.335 s.2; 1987 c.877 s.1]

293.707 [1965 c.359 s.9; repealed by 1967 c.335 s.60]

293.710 [Formerly 291.606; repealed by 1967 c.335 s.60]

293.711 Compensation and expenses of council members; chairperson. (1) A member of the Oregon Investment Council is entitled to compensation and expenses as provided in ORS 292.495.

(2) The council shall select one of its members as chairperson, for a term and with powers and duties necessary for the performance of the functions of the office as the council shall determine. [1967 c.335 ss.3,4; 1969 c.314 s.19]

293.713 When compensation of council member as director of business prohibited. A member of the Oregon Investment Council is prohibited from accepting compensation for service, except per diem and reimbursement for travel expenses, on the board of directors of any business in which the state has an equity interest, other than publicly traded common stock. [1993 c.718 s.3]

Note: 293.713 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 293 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

293.715 [Formerly 291.607; repealed by 1967 c.335 s.60]

293.716 State Treasurer is investment officer for council; subordinate personnel; bonds. (1) The State Treasurer is the investment officer for the Oregon Investment Council, and shall perform functions in that capacity as authorized or required by law and, consistent with law, by the council.

(2) The bond of the State Treasurer required from the State Treasurer by law shall be deemed to extend to the faithful performance of all functions of the office of investment officer.

(3) The investment officer may:

(a) Subject to any applicable provision of the State Personnel Relations Law, employ, prescribe the functions and fix the compensation of personnel necessary to facilitate and assist in carrying out the functions of the council and investment officer.

(b) Require a fidelity bond of any person employed by the investment officer who has charge of, handles or has access to any investment funds, state money or property. The amounts of the bonds shall be fixed by the investment

officer, except as otherwise provided by law, and the sureties shall be approved by the investment officer. The premiums on the bonds shall be an expense of the State Treasurer. [1967 c.335 s.5]

293.718 Payment of expenses of State Treasurer. As payment for expenses of the investment officer, the State Treasurer may deduct monthly a maximum of 0.25 basis points of the most recent market value of assets under management for each of the investment funds. However, for the funds described in ORS 293.701 (2)(o), a maximum of 0.435 basis points may be deducted monthly. Amounts so deducted shall be deposited in the Miscellaneous Receipts Account established in the General Fund for the State Treasurer, and are appropriated for payment of the expenses of the State Treasurer as investment officer. [1969 c.466 s.2; 1989 c.319 s.3; 1995 c.288 s.1; 1999 c.1043 s.2]

293.720 [Formerly 291.608; repealed by 1967 c.335 s.60]

293.721 General objective of investments. Moneys in the investment funds shall be invested and reinvested to achieve the investment objective of the investment funds, which is to make the moneys as productive as possible, subject to the standard set forth in ORS 293.726. [1967 c.335 s.6]

293.726 Standard of judgment and care in investments; investment in corporate stock limited; investment in foreign securities prohibited. (1) The investment funds shall be invested and the investments of those funds managed as a prudent investor would do, under the circumstances then prevailing and in light of the purposes, terms, distribution requirements and laws governing each investment fund.

(2) The standard stated in subsection (1) of this section requires the exercise of reasonable care, skill and caution, and is to be applied to investments not in isolation but in the context of each investment fund's investment portfolio and as a part of an overall investment strategy, which should incorporate risk and return objectives reasonably suitable to the particular investment fund.

(3) In making and implementing investment decisions, the Oregon Investment Council and the investment officer have a duty to diversify the investments of the investment funds unless, under the circumstances, it is not prudent to do so.

(4) In addition to the duties stated in subsection (3) of this section, the council and the investment officer must:

(a) Conform to the fundamental fiduciary duties of loyalty and impartiality;

(b) Act with prudence in deciding whether and how to delegate authority and in the selection and supervision of agents; and

(c) Incur only costs that are reasonable in amount and appropriate to the investment responsibilities imposed by law.

(5) The duties of the council and the investment officer under this section are subject to contrary provisions of privately created public trusts the assets of which by law are made investment funds. Within the limitations of the standard stated in subsection (1) of this section and subject to subsections (6) and (7) of this section, there may be acquired, retained, managed and disposed of as investments of the investment funds every kind of investment which persons of prudence, discretion and intelligence acquire, retain, manage and dispose of for their own account.

(6) Notwithstanding subsection (1) of this section, not more than 50 percent of the moneys contributed to the Public Employees Retirement Fund or the Industrial Accident Fund may be invested in common stock, and not more than 65 percent of the moneys contributed to the other trust and endowment funds managed by the Oregon Investment Council or the State Treasurer may be invested in common stock.

(7) Notwithstanding subsection (1) of this section, no moneys invested pursuant to ORS 293.701 (2)(o) shall be invested in any securities originating outside the United States.

(8) Subject to the standards set forth in this section, moneys held in the Deferred Compensation Fund may be invested in the stock of any company, association or corporation, including but not limited to shares of a mutual fund. Investment of moneys in the Deferred Compensation Fund is not subject to the limitation imposed by subsection (6) of this section. [1967 c.335 s.7; 1971 c.53 s.1; 1973 c.385 s.1; 1981 c.880 s.12; 1983 c.456 s.1; 1983 c.466 s.1; 1987 c.759 s.1; 1993 c.18 s.59; 1993 c.75 s.1; 1997 c.129 s.2; 1997 c.179 s.22; 1997 c.804 s.5]

293.731 Council to formulate and review investment policies; exception. Subject to the objective set forth in ORS 293.721 and the standards set forth in ORS 293.726, the Oregon Investment Council shall formulate policies for the investment and reinvestment of moneys in the investment funds and the acquisition, retention, management and disposition of investments of the investment funds. The council, from time to time, shall review those policies and

make changes therein as it considers necessary or desirable. The council may formulate separate policies for any fund included in the investment funds. This section does not apply to the Oregon Resource and Technology Development Account, to the Oregon Resource and Technology Development Account Board, to the Oregon Growth Account or to the Oregon Growth Account Board. [1967 c.335 s.8; 1993 c.210 s.20; 1999 c.42 s.1; 1999 c.274 s.18]

293.735 [Formerly 291.610; repealed by 1967 c.335 s.60]

293.736 Duties of investment officer; investment restriction; exception. (1) Except as provided in subsection (2) of this section and in ORS 293.741, in amounts available for investment purposes and subject to the policies formulated by the Oregon Investment Council, the investment officer shall invest and reinvest moneys in the investment funds and acquire, retain, manage, including exercise of any voting rights, and dispose of investments of the investment funds.

(2) The investment officer may not perform functions specified in subsection (1) of this section with respect to investment in common stock of moneys in the Public Employees Retirement Fund or Industrial Accident Fund. Except as provided in subsection (3) of this section, the investment officer may not perform functions specified in subsection (1) of this section with respect to investment in common stock of moneys in the Deferred Compensation Fund. Those functions with respect to that investment may be performed only by persons contracted with by the council as provided in ORS 293.741.

(3) Subject to the direction of the council, the investment officer shall perform the functions described in subsection (1) of this section with respect to the investment in mutual funds of moneys in the Deferred Compensation Fund. The council must approve all mutual funds in which Deferred Compensation Fund moneys are invested. [1967 c.335 s.9; 1997 c.179 s.23]

293.740 [Formerly 291.611; repealed by 1967 c.335 s.60]

293.741 Council may contract with others to perform investment officer functions; compensation; bond. The Oregon Investment Council may enter into contracts with one or more persons whom the council determines to be qualified, whereby the persons undertake, in lieu of the investment officer, to perform the functions specified in ORS 293.736 to the extent provided in the contract. Performance of functions under contract so entered into shall be paid for out of the gross interest or other income of the investments with respect to which the functions are performed, and the net interest or other income of the investments after that payment shall be considered income of the investment funds. The council may require a person contracted with to give to the state a fidelity bond in a penal sum as may be fixed by law or, if not so fixed, as may be fixed by the council, with corporate surety authorized to do business in this state. Contracts so entered into and functions performed thereunder are not subject to the State Personnel Relations Law or ORS 279.545 to 279.746. [1967 c.335 s.10]

293.745 [Formerly 291.612; repealed by 1967 c.335 s.60]

293.746 Opinion of bond attorney or Attorney General; investment counseling and mortgage services. (1) In the acquisition or disposition of bonds with which approving legal opinions ordinarily are furnished, the investment officer may require an original or certified copy of the written opinion of a reputable bond attorney or attorneys, or the written opinion of the Attorney General, certifying to the legality of the bonds.

(2) The Oregon Investment Council may arrange for the furnishing to the investment officer of investment counseling services. The furnishing and acquisition of those services are not subject to the State Personnel Relations Law or ORS 279.545 to 279.746.

(3) The investment officer, with the approval of the council, may arrange for services with respect to mortgages in which moneys in the investment funds are invested. Those services shall be paid for out of the gross interest of the mortgages with respect to which the services are furnished, and the net interest of the mortgages after that payment shall be considered income of the investment funds. The furnishing and acquisition of those services are not subject to the State Personnel Relations Law or ORS 279.545 to 279.746. [1967 c.335 s.11]

293.750 [Formerly 291.613; repealed by 1967 c.335 s.60]

293.751 Custody of title instruments; deposit for safekeeping; form; collection and disposition of principal

and interest; default proceedings. (1) Except as provided in ORS 293.741 and this subsection, all instruments of title of all investments of the investment funds shall remain in the custody of the investment officer. The investment officer may deposit with one or more custodial agents or banks those instruments of title that the State Treasurer considers advisable, to be held in safekeeping by the agents or banks for collection of the principal and interest or other income, or of the proceeds of sale or maturity. For purposes of this section, instruments of title of investments of the investment funds may include such evidence of title as the investment officer shall consider secure and consistent with modern investment, banking and commercial practices, and may include book entry and automated recordation of such title.

(2) Except as provided in ORS 293.741 and 293.746 (3) and subsections (1) and (3) of this section, the investment officer shall collect the principal and interest or other income of investments of the investment funds, title of which is in the investment officer's custody, when due and payable, and shall pay the principal and interest or other income, when so collected, into the appropriate fund. Except as otherwise provided by law, interest or other income of investments of funds in the hands of the State Treasurer that are not required to meet current demands shall be paid into the General Fund to be available for the payment of general governmental expenses.

(3) In the event of default in the payment of principal or interest or other income of any investment of the investment funds, the investment officer, with the approval of the Oregon Investment Council, may:

(a) Institute the proper proceedings to collect the matured principal or interest or other income.

(b) Accept for exchange purposes refunding bonds or other evidences of indebtedness at interest rates to be agreed upon by the investment officer and obligor.

(c) Make compromises, adjustments or disposition of the matured principal or interest or other income as the investment officer considers advisable for the purpose of protecting the moneys invested.

(d) Make compromises or adjustments as to future payments of principal or interest or other income as the investment officer considers advisable for the purposes of protecting the moneys invested. [1967 c.335 s.12; 1979 c.475 s.1; 1981 c.194 s.2; 1991 c.88 s.3]

293.755 [Formerly 291.614; repealed by 1967 c.335 s.60]

293.756 Separate accounting for funds. The investment officer shall keep, for each fund included in the investment funds for which investments are made, a separate account, which shall record the individual amounts and the totals of all investments of moneys in the fund. [1967 c.335 s.13]

293.760 [Formerly 291.616; repealed by 1967 c.335 s.60]

293.761 Monthly reports by investment officer with respect to funds. The investment officer shall report quarterly to the officer or body having control and administration of each fund included in the investment funds the changes in investments made during the preceding month for the fund. If requested by the officer or body, the investment officer shall furnish to the officer or body the details on the investment transactions for any fund. The investment officer shall separately identify investments held in the Oregon Growth Account established in ORS 348.702 and the Oregon Resource and Technology Development Account established in ORS 284.655 as part of the report on the Education Endowment Fund required by this section. [1967 c.335 s.14; 1993 c.210 s.21; 1999 c.42 s.2; 1999 c.274 s.19]

293.765 [Formerly 291.618; repealed by 1967 c.335 s.60]

293.766 Monthly reports by investment officer to council. Not later than 15 days after the last day of each month, the investment officer shall submit to the Oregon Investment Council a report of the investments made during the preceding month. The report shall include a detailed summary of investment, reinvestment, purchase, sale and exchange transactions, setting forth, among other matters, the investments bought, sold and exchanged, the dates thereof, the prices paid and obtained, the names of the dealers involved and a statement of the accounts referred to in ORS 293.756. The investment officer may send copies of the report to investment bankers and brokers recommended by the council. [1967 c.335 s.15]

293.770 [Formerly 291.620; repealed by 1967 c.335 s.60]

293.771 Reports by council to Governor and legislature. The Oregon Investment Council shall report to the Governor and Legislative Assembly on the investment funds investment program at each regular session of the Legislative Assembly and at other times as the council considers in the public interest. [1967 c.335 s.16]

293.775 [1963 c.520 s.3; repealed by 1967 c.335 s.60]

293.776 Examination and audit of investment program; report. The Oregon Investment Council shall provide for an examination and audit of the investment funds investment program, and for submission to the council of a report based on the examination and audit, at least once every four years and at other times as the council may require. The examination and audit, and the report based thereon, shall include an evaluation of current investment funds investment policies and practices and of specific investments of the investment funds in relation to the objective set forth in ORS 293.721, the standard set forth in ORS 293.726 and other criteria as may be appropriate, and recommendations relating to the investment funds investment policies and practices and to specific investments of the investment funds as are considered necessary or desirable. The council shall make copies of the report or a summary thereof available for distribution to interested persons. [1967 c.335 s.17]

293.778 Investment holding companies; use; directors and officers; effect of conflict of interests. (1) The investment officer singly, or jointly with other public or institutional investors, may authorize establishment of investment holding companies, which may be corporations, partnerships or limited liability companies, and placement of investment funds or investments in such companies, when it is appropriate to do so under the investment standard prescribed in ORS 293.726. An investment holding company authorized by this section has the powers and authority granted by the laws of the jurisdiction in which the company is established.

(2) Any person qualified under the laws of the jurisdiction in which an investment holding company is established may serve as an officer, director, member or manager of the company. Officers and employees of the office of the State Treasurer may serve as directors, officers and members of investment holding companies authorized by this section. However, if a conflict arises between the duties of the officer or employee of the office of the State Treasurer under state law and the duties of the officer or employee of the office of the State Treasurer as a director, officer or member of the investment holding company, the officer or employee shall abstain from acting on behalf of the company. If the conflict cannot be avoided by abstention, the officer or employee shall immediately resign from the company. [1993 c.76 s.2; 1999 c.481 s.1]

293.780 Group annuity contracts with insurers on behalf of Public Employees Retirement System and Board. The Oregon Investment Council, for and on behalf of the Public Employees Retirement System and Public Employees Retirement Board, may enter into group annuity contracts with one or more insurance companies authorized to do business in this state. In lieu of any investment of moneys in the Public Employees Retirement Fund as provided in ORS 293.701 to 293.820, the council may pay, from time to time under contracts so entered into, any moneys in that fund available for investment purposes. Contracts so entered into are not subject to ORS 279.545 to 279.746. [1967 c.335 s.18]

293.790 Holding, investing and disposing of corporate stock. (1) Under authority of section 6, Article XI of the Oregon Constitution, the state, subject to subsection (2) of this section, may hold and dispose of the stock of any company, association or corporation, including stock already received, that is donated or bequeathed and the state, acting by and through the State Board of Higher Education, subject to subsection (2) of this section, may invest and reinvest in the stock of any company, association or corporation, any funds or moneys of the State Board of Higher Education that:

- (a) Are or have been donated or bequeathed for higher education purposes;
- (b) Are the proceeds from the disposition of stock that is donated or bequeathed for higher education purposes, including stock already received; or
- (c) Are dividends paid with respect to stock that is donated or bequeathed for higher education purposes, including stock already received.

(2) The state, including any of its agencies having control of, or authority to invest and reinvest in, any stock described in subsection (1) of this section, in holding, disposing of or investing and reinvesting in such stock, shall be governed by ORS 128.065 and 128.194 to 128.218, notwithstanding the date of acquisition of such stock. Moneys received from the disposition of such stock, including dividends, shall be maintained separate and distinct from the

General Fund, and those moneys, including interest earned thereon, are appropriated continuously for the purposes of the donation or bequest and of the investments and reinvestments authorized by subsection (1) of this section and by ORS 351.130. Except as specifically authorized by law, the state or any of its agencies may not purchase stock.

(3) This section does not apply to investment and reinvestment of moneys in the Public Employees Retirement Fund, the Industrial Accident Fund, the Deferred Compensation Fund and the Education Endowment Fund or to acquisition, retention, management and disposition of investments of those funds as provided in ORS 293.701 to 293.820. [Formerly 291.630; 1967 c.335 s.32; 1971 c.339 s.1; 1989 c.966 s.21; 1995 c.12 s.4; 1995 c.157 s.25; 1997 c.179 s.24]

293.796 Findings regarding venture capital for new businesses. The Legislative Assembly finds that:

(1) The availability of venture capital for the start-up and subsequent expansion of new businesses is critical to the continued growth and development of the economy of Oregon.

(2) There exists an estimated gap of between \$100 million and \$200 million between available venture capital resources and the need of Oregon businesses for such resources.

(3) Investments in start-up and expanding businesses can produce substantial positive returns for long-term investors.

(4) Pension funds managed by the Oregon Investment Council constitute a major financial resource of the State of Oregon, and that such funds may be prudently invested in start-up businesses in this state under policies established by the Oregon Investment Council. [1995 c.811 s.1]

Note: 293.796 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 293 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

293.802 [1995 c.811 s.2; repealed by 1999 c.54 s.2]

293.805 [1971 c.339 s.2; repealed by 1975 c.363 s.2]

293.810 [1981 c.880 s.2; 1991 c.88 s.4; 1993 c.18 s.60; repealed by 1997 c.129 s.4]

INVESTING LOCAL FUNDS

293.820 Separate accounts for each local government; report; investment rules. (1) When the investment officer invests the funds of any county, municipality, school district or other political subdivision of this state, the investment officer shall keep a separate account for each such governmental unit the funds of which are being invested.

(2) The investment officer shall report monthly to each such governmental unit the changes made during the preceding month in the investments for the account of that governmental unit. The monthly reports shall be provided to the governmental units within 30 days after the end of the month to which they pertain.

(3) All funds invested by the investment officer shall be invested in accordance with rules adopted or readopted at least annually by the Oregon Short Term Fund Board and approved by the Oregon Investment Council. Such rules shall be published, shall be made available to all interested parties and shall be distributed at least annually to all local governments investing funds pursuant to ORS 294.805 to 294.895. [1981 c.880 s.3]

INVESTMENT POOLS

293.822 Investment pools authorized. The Legislative Assembly recognizes that changes in federal arbitrage regulations have imposed substantial additional financial and administrative burdens on state agencies and local governments which issue tax-exempt obligations. The impact of these burdens is exacerbated by the fiscal restrictions placed on these agencies and governments by section 11b, Article XI of the Oregon Constitution. The Legislative Assembly finds that it will benefit the citizens of the state to authorize the State Treasurer to create one or more investment pools which are designed to reduce these burdens of compliance with federal arbitrage rules. [1991 c.902 s.107]

293.824 Investment pool procedures; duties of State Treasurer. (1) As used in this section:

- (a) "Council" means the Oregon Investment Council.
- (b) "Governmental unit" has the meaning given the term under ORS 288.150.
- (c) "Investor" means an entity which deposits proceeds with the State Treasurer for investment in a pool.
- (d) "Pool" means a fund or account established by the State Treasurer for the investment of proceeds for one or more investors, pursuant to this section.
- (e) "Proceeds" means funds obtained from the sale of tax-exempt obligations, and other funds which secure, or are held to pay debt service on, tax-exempt obligations.
- (f) "Tax-exempt obligations" means bonds, notes, certificates or other obligations, the interest on which is excluded from gross income under the United States Internal Revenue Code.
- (2) In addition to the other powers granted to the State Treasurer, the State Treasurer may create one or more pools for the investment of proceeds. The pools shall be separate and distinct from the General Fund. Amounts in a pool shall be invested under the standards for investment of state funds which are provided in ORS 293.701 to 293.820. However, the investment objective for the pools shall be to make the amounts therein as productive to the investor as is administratively reasonable, taking into account restrictions imposed by the United States on the investment of the proceeds and the ability of the investor to retain investment earnings for its benefit. Amounts in a pool shall be invested according to policies established by the Oregon Investment Council. ORS 293.820 shall not apply to investments of amounts in a pool. The State Treasurer or the council may enter into agreements with investors regarding the investment of proceeds in a pool authorized by this section and may take other action reasonably required to establish and operate pools for the investment of proceeds in a manner which reduces the burden on investors of complying with federal arbitrage laws.
- (3) The State Treasurer or the council may contract for trust, investment management, legal, accounting, financial advisory and other services with respect to the funds invested in a pool. Costs of the services may be paid from earnings on proceeds invested in a pool, from fees charged to investors or from any other legally available funds. The State Treasurer may charge investors fees for deposit or withdrawal of amounts from a pool. The fees shall not exceed the State Treasurer's reasonable estimate of the costs of creating and operating the pool.
- (4) The State Treasurer shall establish policies and procedures for the allocation of pool expenses, earnings and losses among investors in a pool, and for the deposit and withdrawal of amounts in a pool. Net earnings on amounts in pools shall be distributed among investors in accordance with the policies and procedures established by the State Treasurer.
- (5) The State of Oregon, its agencies, governmental units and trustees which hold proceeds may invest proceeds through the State Treasurer in a pool. [1991 c.902 s.108; 1997 c.129 s.3]

293.830 [1987 c.193 s.1; repealed by 1999 c.295 s.1]

293.835 [1987 c.193 s.3; 1991 c.135 s.1; 1999 c.59 s.77; repealed by 1999 c.295 s.1]

293.840 [1987 c.193 s.2; 1991 c.135 s.2; repealed by 1999 c.295 s.1]

293.845 [1987 c.193 s.4; 1991 c.135 s.3; repealed by 1999 c.295 s.1]

293.850 [1987 c.193 s.5; 1991 c.135 s.4; repealed by 1999 c.295 s.1]

293.855 [1987 c.193 s.6; 1991 c.135 s.5; repealed by 1999 c.295 s.1]

293.860 [1987 c.193 s.7; 1991 c.135 s.6; repealed by 1999 c.295 s.1]

293.865 [1987 c.193 s.8; 1991 c.135 s.7; repealed by 1999 c.295 s.1]

293.867 [1991 c.135 s.9; repealed by 1999 c.295 s.1]

293.870 [1987 c.193 s.10; repealed by 1999 c.295 s.1]

CASH MANAGEMENT

293.875 State Treasurer as state cash management officer; duties. (1) The State Treasurer is designated the cash management officer for the state and may review, establish and modify procedures for the efficient handling of cash and cash equivalents under the control of the State Treasury, the Secretary of State, the Judicial Department, the Legislative Assembly and state agencies, as defined in ORS 291.002.

(2) The State Treasurer shall continuously review the effectiveness of cash management of state agencies, the Secretary of State, the Judicial Department and the Legislative Assembly, and when the State Treasurer considers it appropriate shall report in writing to the subject agency the findings of this review, along with any recommendations. A copy of the report shall be provided to the Legislative Fiscal Officer and to the Secretary of State.

(3) State agencies shall employ the principles, standards and related requirements for cash management, including the use of secure disbursing and receiving documents and systems, prescribed by the State Treasurer. [1993 c.73 s.3; 1997 c.65 s.1]

293.880 Accounts and funds established to comply with federal legislation relating to state and federal cash management reform. The State Treasurer may establish accounts, and the Oregon Department of Administrative Services may establish funds, as needed to comply with the requirements of federal legislation relating to the state and federal cash management reform. These accounts and funds shall be separate and distinct from the General Fund. Interest earned, if any, shall inure to the benefit of the account or fund. Moneys in these accounts and funds are continuously appropriated for the following purposes:

(1) To the extent authorized by federal legislation, administrative expenses of the department, the State Treasurer and the Division of Audits of the Secretary of State in the performance of their duties relating to the program known as the state and federal cash management reform. Payment of such expenses by the department shall be based on properly documented claims and shall be paid the same as other claims against the State of Oregon.

(2) The transfer of interest earnings to the federal government in accordance with signed agreements between the United States Treasury and this state.

(3) The transfer of interest earnings to the General Fund or other separate funds if documentation shows that state funds have been used in anticipation of the receipt of federal funds. The use of state funds in lieu of federal funds must be in accordance with signed agreements between the United States Treasury and this state. [1989 c.552 s.2]

PENALTIES

293.990 Penalties. (1) Any person, official or state agent violating ORS 293.265 to 293.280 or failing to comply with any of the requirements of those sections within the time provided shall be liable on the official bond of the person, officer or state agent and shall, upon conviction thereof, be punished by a fine not exceeding \$1,000 or by imprisonment in the county jail for a period not exceeding one year, or both.

(2) In addition to civil liability, violation of ORS 293.620 is a Class A violation. Upon conviction, the defendant is liable for all costs of the prosecution in accordance with ORS 151.505 or 161.665. [Formerly 291.990 (2), (3); 1971 c.743 s.353; 1997 c.761 s.12; 1999 c.1051 s.173]
