TITLE 28

PUBLIC FINANCIAL ADMINISTRATION

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

2001 EDITION

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GENERAL PROVISIONS

291.001 Definition of accounting terms; establishment of funds and accounts. (1) As used in the statute laws of this state, unless the context or specially applicable definition requires otherwise, the words “subaccounts,” “accounts” or “funds,” and “electronic funds transfers,” “checks” or “warrants,” are used interchangeably, where such use is consistent with state accounting principles and is approved by the State Treasurer.

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

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

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

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

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

(4) “Revolving fund” means a fund in the State Treasury, established by law, from which is paid the cost of goods

or services furnished to or by a state agency, and which is replenished through charges made for such goods or services or through transfers from other accounts or funds; and specifically includes funds derived from receipts by the State Board of Higher Education of tuition, fees, dormitory earnings, student activity receipts and sales of products and services incident to education functions.

(5) “Trust fund” means a fund in the State Treasury in which designated persons or classes of persons have a vested beneficial interest or equitable ownership, or which was created or established by a gift, grant, contribution, devise or bequest that limits the use of the fund to designated objects or purposes.

(6) “Classification of expenditures” means the major groups or categories of expenditures for the purpose of budget-making and accounting that are established as provided in ORS 291.206.

(7) “State agency” or “agency” means every state officer, board, commission, department, institution, branch or agency of the state government, whose costs are paid wholly or in part from funds held in the State Treasury, except the Legislative Assembly, the courts and their officers and committees, and except the Secretary of State and the State Treasurer in the performance of the duties of their constitutional offices.

(8) “State officer” means any elected or appointed state officer, including members of boards and commissions, except the members and officers of the Legislative Assembly, the courts and the Secretary of State and the State Treasurer in the performance of the duties of their constitutional offices. [Amended by 1967 c.419 §2]

291.003 Federal laws and rules govern when federal granted funds involved. In all cases where federal granted funds are involved, the federal laws, rules and regulations applicable thereto shall govern notwithstanding any provision to the contrary in ORS 291.001 to 291.034, 291.201 to 291.222, 291.232 to 291.260, 291.307 and 291.990. [Amended by 1967 c.419 §3]

291.004 [Repealed by 1967 c.419 §68]

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

291.006 [Repealed by 1967 c.419 §68]

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

291.008 [Repealed by 1967 c.419 §68]

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

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

FISCAL DUTIES OF DEPARTMENT

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

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

(3) The provisions of this section are considered to satisfy any provision of law requiring individual fidelity bonds for elected officers if the level of coverage of the blanket fidelity bond is at least equal to the individual statutory requirements.

(4) As used in this section:

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

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

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

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

291.014 [Repealed by 1967 c.419 §68]

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

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

291.016 Making administrative and organizational surveys. The Oregon Department of Administrative Services may make or cause to be made administrative and organizational surveys of the state agencies for the purpose of determining the feasibility of improving the administration of the state government by the elimination of unnecessary positions and activities, the improvement of internal operating forms, the avoidance of duplication, and increasing efficiency and economical operation.

291.018 Conducting research; requiring administrative reports from agencies. The Oregon Department of Administrative Services shall conduct research for use in administrative planning, policy review and organization and methods improvement. Periodic administrative reports to the department and the Governor, designed to outline factually the quantitative and qualitative aspects of work performance by operating units, may be required of state agencies. The department may require submission of such information in reports as will permit sound analysis and will provide the basis for detecting administrative weaknesses, correcting performance difficulties and permitting better planning and management of state services.

291.020 [Renumbered 291.028]

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

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

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

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

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

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

291.032 Providing technical services involving management and organization. The Oregon Department of Administrative Services may provide technical services to state agencies for management improvement development and the development of economies in the organization and administration of state agencies. The technical services may include consulting studies in work simplification, work measurement, equipment utilization and other management improvement concepts. The cost of the technical services, or portions thereof, as determined by the department, shall be charged to the agency served and paid to the department in the same manner as other claims against the agency are paid. [1965 c.365 §3]

291.034 Providing technical services involving data processing. The Oregon Department of Administrative Services may provide technical services to state agencies for data processing systems development and the development of data processing methods and applications. The technical services may include consulting and programming services and assistance in locating electronic data processing installations. The cost of the technical services, or portions thereof, as determined by the department, shall be charged to the agency served and paid to the department in the same manner as other claims against the agency are paid. [1965 c.365 §4]

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

291.037 Legislative findings on information resources. The Legislative Assembly finds and declares that:

(1) Information is a strategic asset of the state which must be managed as a valuable state resource.

(2) The expanding need, use and importance of information resources in this state require strong and effective management by both individual agencies and the state as a whole.

(3) The state must establish management procedures to assure a framework for the review, improvement, integration, development, security and use of information resources. Principal objectives for information resources management are improved productivity of state workers, better public access to public information, increased effectiveness in the delivery of services provided by the various agencies and enhancing development of the telecommunication infrastructure available to the public.

(4) Effective information resources management requires:

(a) A specific statewide strategic plan, including management and technical policy;

(b) Comprehensive planning of the design, acquisition, security and use of information resources;

(c) The operation of communications systems and information resources that respond to the management information needs of agencies and programs; and

(d) Consideration of the impact of information resources management activities on the development and vitality of telecommunications infrastructure available to the public.

(5) Although each agency is responsible for its information resources, centralized information resource management must also exist to:

(a) Provide statewide rules and standards;

(b) Monitor and insure compliance with those rules and standards;

(c) Provide management and technical assistance; and

(d) Insure that the information resources management needs of state government and its programs are addressed along with the needs of the individual agencies. [1991 c.531 §1]

Note: 291.037 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS

chapter 291 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

291.038 State agency planning, acquisition, installation and use of information and telecommunications technology; integrated videoconferencing; on-line access service; Stakeholders Advisory Committee; rules. (1) The planning, acquisition, installation and use of all information and telecommunications technology by state government and its agencies shall be coordinated so that statewide plans and activities, as well as those of individual agencies, are addressed in the most integrated, economic and efficient manner. To provide policy direction for and coordination of information technology for state government, the Director of the Oregon Department of Administrative Services shall chair and appoint not fewer than five agency executives to an Information Resources Management Council. The council membership shall include at least two members representing the private sector and political subdivisions of the state.

(2) To facilitate accomplishment of the purpose set forth in subsection (1) of this section, the Oregon Department of Administrative Services shall adopt by rule policies, procedures, standards and guidelines to plan for, acquire, implement and manage the state's information resources. In developing rules, the department shall consult with state agencies having needs that may be satisfied by use of information resources. State agencies shall cooperate with the department in preparing and complying with rules. The rules must be formulated to promote electronic communication and information sharing among state agencies and programs and between state and local governments, and with the public where appropriate.

(3) Rules, plans and specifications shall be formulated to insure that information resources fit together in a statewide system capable of providing ready access to information, computing or telecommunication resources. Rules, plans and specifications shall be based on industry standards for open systems to the greatest extent possible. Prior to adoption of rules referred to in subsection (2) of this section, the Oregon Department of Administrative Services shall present the proposed rules to the appropriate legislative committee. The Oregon Department of Administrative Services shall have the review and oversight responsibility for insuring that agencies' planning, acquisition and implementation activities support the statewide information resources management plan. The department shall be responsible for the fair and competitive procurement of information technology consistent with the rules of the department. The State Board of Higher Education shall be responsible for the fair and competitive procurement of information technology for the Oregon University System consistent with rules of the Oregon Department of Administrative Services.

(4)(a) It is the policy of the State of Oregon that state government telecommunications networks should be designed to provide state-of-the-art services where economically and technically feasible, using shared, rather than dedicated, lines and facilities.

(b) The Oregon Department of Administrative Services shall, when procuring telecommunications network services, consider the achievement of the economic development and quality of life outcomes contained in the Oregon benchmarks.

(5)(a) The Oregon Department of Administrative Services, upon request, may furnish and deliver statewide integrated videoconferencing and statewide on-line access service to any public or private entity that primarily conducts its activities for the direct good or benefit of the public or community-at-large in providing educational, economic development, health care, human services, public safety, library or other public services. The department shall adopt rules with respect to furnishing the service.

(b) The department shall establish the statewide integrated videoconferencing and statewide on-line access user fees, services, delivery, rates and long range plans in consultation with the Stakeholders Advisory Committee created pursuant to this section. The rates shall reflect the department's cost in providing the service.

(c) The department by rule shall restrict its furnishing or delivery of Internet access service to private entities when the service would directly compete with two or more local established providers of such services within the local exchange telecommunications service area.

(d) The rates and services established and provided under this section shall not be subject to the regulation or authority of the Public Utility Commission.

(6)(a) There is created the Stakeholders Advisory Committee, consisting of a minimum of nine members appointed by the Director of the Oregon Department of Administrative Services. In making appointments, the director shall give consideration to geographic balance and adequate representation of the department's users and providers and the general public.

(b) The Stakeholders Advisory Committee shall consist of members who represent elementary or secondary education, higher education, community colleges, economic development, health care, human services and public safety. At least four members shall reside in areas east of the Cascade Mountains.

(c) The term of office of each member is three years, but a member serves at the sole discretion of the director. The director shall appoint a successor to a member before the expiration of the term of the member. A member is eligible for reappointment. If a position on the Stakeholders Advisory Committee is vacant for any cause, the director shall make an appointment to the position, immediately effective for the unexpired term.

(d) A member of the Stakeholders Advisory Committee is entitled to travel expenses pursuant to ORS 292.495. Members of the Stakeholders Advisory Committee are not entitled to compensation.

(e) The director may establish additional advisory and technical committees as the director considers necessary to aid and advise the Stakeholders Advisory Committee in the performance of its functions.

(f) The director may delegate to the State Chief Information Officer any of the duties, functions or powers imposed upon the director by this subsection.

(7) Any organization or organizations recognized as tax exempt under section 501(c)(3) of the Internal Revenue Code of 1986 that primarily conduct activities for the direct good or benefit of the public or community at large in providing educational, economic development, health care, human services, public safety, library or other public services and have formed an affiliation with one or more federal, state or local governmental units within this state may make application to the department for designation as a community of interest. The application shall be in such form and shall contain such information regarding the governmental affiliation relationship, the tax exempt status of each organization and the public benefit services to be provided as the department may prescribe. The department shall establish an application review and appeal process to ensure that designation of those organizations as a community of interest for the purposes of including the organization in telecommunications contracts under ORS 283.520 will result in providing educational, medical, library or other services for public benefit.

(8) As used in this section:

(a) “Advanced digital communications” means equipment, facilities and capability to distribute digital communications signals for the transmission of voice, data, image and video over distance.

(b) “Information resources” means media, instruments and methods for planning, collecting, processing, transmitting and storing data and information, including telecommunications.

(c) “Information resources management” means the state’s program for managing data and information in its various forms in furtherance of program and agency objectives, and in such a way that agency employees are able to obtain and use information easily, efficiently, effectively and economically.

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

(e) “Data” and “information” represent facts and representations about the state’s human, natural and commercial resources.

(f) “Open systems” means systems that allow state agencies freedom of choice by providing a vendor-neutral operating environment where different computers, applications, system software and networks operate together easily and reliably.

(g) “State-of-the-art services” includes advanced digital communications.

(h) “Telecommunications” means the hardware, software and services for transmitting voice, data, video and images over a distance.

(i) “Statewide integrated video-conferencing” means a statewide electronic system capable of transmitting video, voice and data communications.

(j) “Statewide on-line access” means electronic connectivity to information resources such as computer conferencing, electronic mail, databases and Internet access.

(k) “Internet access service” means electronic connectivity to the Internet and its services. [1967 c.419 §11; 1985 c.594 §1; 1991 c.531 §2; 1993 c.724 §§14,14a; 1995 c.612 §19; 1997 c.484 §2; 1997 c.684 §2]

291.040 State financial report. (1) Within 180 days of the close of each fiscal year, the Oregon Department of Administrative Services shall prepare a financial report for the State of Oregon. The report shall contain financial statements which fairly present the financial condition and results of operation of the State of Oregon in accordance with current, generally accepted accounting principles and such other financial and statistical information as may be necessary to completely and accurately disclose the financial condition and financial operations of the state and its various agencies.

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

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

291.042 Use of data processing programs, information and materials; approval by legislature. (1) Subject to the approval of the Joint Legislative Committee on Information Management and Technology, the Oregon Department of Administrative Services:

(a) May obtain copyrights and patents on copyrightable or patentable data processing programs, information or materials developed, published or produced by state agency staff.

(b) May cause to have sold, leased, or otherwise made available such data processing programs, information or materials to any agency or legislative body of any state or the federal government under such terms and conditions as may be agreed to by the committee and the agencies.

(2) Moneys collected under this section shall be credited to the General Fund and, less agency expenses accrued in developing, producing and distributing software and in training software users, shall be available for general governmental purposes. However, if resources expended for such development, production, distribution and training activities were from fees or assessments charged and collected by the agency, the net proceeds of moneys collected under this section shall be credited to the same accounts to which the fees or assessments are credited and shall be used to reduce the fees or assessments charged by the agency to the extent permitted by law. [1979 c.740 §3; 1993 c.18 §56; 1995 c.452 §22]

Note: See note under 291.040.

PUBLIC CONTRACT APPROVAL

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

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

(2) “State agency” includes every state officer, board, commission, department, institution, branch or agency of the state government, whose costs are paid wholly or in part from funds held in the State Treasury, except the Legislative Assembly, the courts and their officers and committees.

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

(4) “Public improvement” means projects for construction, reconstruction or renovation on real property by or for a state agency. [1997 c.869 §4]

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

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

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

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

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

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

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

(6) Notwithstanding subsections (1) and (2) of this section, the Attorney General may authorize services to be performed under a contract described in subsection (1) or (2) of this section before approval for legal sufficiency if the Attorney General determines that the authorization will not result in undue risk to this state. An authorization under this subsection shall be limited to specific classes of contracts or to contracts for specific agency programs. The Attorney General may condition an authorization on a finding by the Director of the Oregon Department of Administrative Services, or a designee of the director, and by any other agency with a role in approving such contracts that the contract administration practices of the requesting agency are adequate to manage the proposed contract and that the mission of the agency will be significantly impaired without such authorization. [1997 c.869 §2; 1999 c.264 §1]

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

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

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

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

AGENCY FEE RESTRICTIONS

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

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

(a) Fines and civil penalties or any court judgments.

(b) The sale of products or charges for rents, leases or other real estate transaction costs.

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

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

(2) “Products” means goods and publications purchased voluntarily that have a commercial value. “Products” includes copying charges for public records as defined in ORS 192.410 and the conducting of informational seminars. “Products” does not include services or licenses or permits issued by state agencies.

(3) “State agency” means every state officer, board, commission, department, institution, branch or agency of the state government, except agricultural commodity commissions created pursuant to ORS chapters 576, 577, 578 and 579, that is subject to the provisions of ORS 291.201 to 291.222 and 291.232 to 291.260. “State agency” includes the Legislative Assembly, including legislative committees and service agencies, the Secretary of State, the State Treasurer and the Judicial Department. [1995 c.576 §1]

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

291.055 Agency fee approval required; exemptions; restoration of temporarily reduced fees. (1)

Notwithstanding any other law that grants to a state agency the authority to establish fees, all new state agency fees or fee increases adopted after July 1 of any odd-numbered year:

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

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

(c) Are not effective for agencies in the legislative department of government unless approved in writing by the President of the Senate and the Speaker of the House of Representatives;

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

(e) Are rescinded on July 1 of the next following odd-numbered year, or on adjournment sine die of the regular session of the Legislative Assembly meeting in that year, whichever is later, unless otherwise authorized by enabling legislation setting forth the approved fees.

(2) This section does not apply to:

(a) Any tuition or fees charged by the State Board of Higher Education and state institutions of higher education.

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

(c) Fees or payments required for:

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

(B) Assessments and premiums paid to the Oregon Medical Insurance Pool established by ORS 735.614 and 735.625.

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

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

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

(f) Any intergovernmental charges.

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

(h) Office of Energy assessments required by ORS 469.421 (8) and 469.681.

(i) Any charges established by the Oregon State Fair and Exposition Center in accordance with ORS 565.080 (3).

(j) Assessments on premiums charged by the Insurance Division of the Department of Consumer and Business Services pursuant to ORS 731.804 or fees charged by the Division of Finance and Corporate Securities of the Department of Consumer and Business Services to banks, trusts and credit unions pursuant to ORS 706.530 and 723.114.

(k) Public Utility Commission operating assessments required by ORS 756.310 or charges paid to the Residential Service Protection Fund required by chapter 290, Oregon Laws 1987.

(3)(a) Fees temporarily decreased for competitive or promotional reasons or because of unexpected and temporary revenue surpluses may be restored to their normal level if, at the time the fee is decreased, the state agency specifies the following:

(A) The reason for the fee decrease; and

(B) The conditions under which the fee will be restored to its normal level.

(b) Fees that are decreased for reasons other than those described in paragraph (a) of this subsection may not be subsequently increased except as allowed by ORS 291.050 to 291.060 and 294.160. [1995 c.576 §2; 1997 c.37 §1; 1997 c.684 §3]

Note: See note under 291.050.

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

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

Note: See note under 291.050.

FINANCIAL MANAGEMENT DUTIES

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

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

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

(b) Comply fully with policies and procedures prepared by the Oregon Department of Administrative Services for operation of the financial management system.

(3) The Oregon Department of Administrative Services shall report to the Legislative Assembly no later than December 1 of even-numbered years:

(a) Progress in implementing the financial management system as to preparation of financial statements, nonfinancial management information and the ability of the system to support legislative program evaluation and performance auditing.

(b) Compliance by each agency and unit of state government with policies and procedures of the Oregon Department of Administrative Services for implementation of the financial management system.

(4) After a review of the Oregon Department of Administrative Services report by the Legislative Fiscal Officer, the Joint Legislative Audit Committee may schedule a hearing for any agency or unit of state government to review compliance with this section and policies and procedures of the Oregon Department of Administrative Services, prior to any appropriation approval by the Legislative Assembly, as provided in ORS 171.585 (1). [1993 c.724 §22; 1995 c.452 §23]

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

291.110 Achieving Oregon benchmarks; monitoring agency progress. (1) The Oregon Department of Administrative Services shall be responsible for ensuring that state agency activities and programs are directed toward achieving the Oregon benchmarks. The department shall:

(a) Monitor progress, identify barriers and generate alternative approaches for attaining the benchmarks.

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

(c) Using the guidelines developed by the Oregon Progress Board as described in ORS 285A.171, provide agencies with direction on the appropriate format for reporting performance measures to ensure consistency across agencies.

(d) Using the guidelines developed by the Oregon Progress Board as described in ORS 285A.171, consult with the Secretary of State and the Legislative Assembly to assist in devising a system of performance measures.

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

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

(2) State agencies shall be responsible for developing measurable performance measures consistent with and aimed at achieving Oregon benchmarks. To that end, each state agency shall:

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

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

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

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

(e) In consultation with the Oregon Progress Board, review agency performance measures with the appropriate legislative committee, as determined by the President of the Senate and the Speaker of the House of Representatives, during the regular legislative session. [1993 c.724 §7; 2001 c.582 §9]

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

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

STATE BUDGET; BUDGET AND TAX EXPENDITURE REPORTS

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

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

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

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

(3) The Legislative Assembly declares that it is in the best interest of this state to have prepared a biennial report of tax expenditures that will allow the public and policy makers to identify and analyze tax expenditures and to periodically make criteria-based decisions on whether the expenditures should be continued. The tax expenditure report will allow tax expenditures to be debated in conjunction with on-line budgets and will result in the elimination

of inefficient and inappropriate tax expenditures, resulting in greater accountability by state government and a lowering of the tax burden on all taxpayers. [1995 c.746 §62]

Note: See note under 291.190.

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

(a) Clearly identifying desired results;

(b) Setting priorities;

(c) Assigning accountability; and

(d) Measuring, reporting and evaluating outcomes to determine future allocation.

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

(3) To effect the policy stated in subsection (2) of this section, state government shall:

(a) Allocate resources to achieve desired outcomes;

(b) Express program outcomes in measurable terms;

(c) Measure progress toward desired outcomes;

(d) Encourage savings;

(e) Promote investments that reduce or avoid future costs;

(f) Plan for the short term and long term using consistent assumptions for major demographic and other trends; and

(g) Require accountability at all levels for meeting program outcomes. [1985 c.270 §1; 1993 c.724 §8]

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

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

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

(a) A budget report; and

(b) A tax expenditure report.

(2) The Oregon Department of Administrative Services shall advise and assist the Governor in the preparation of the budget report and tax expenditure report and shall perform such duties in connection therewith as the Governor requires.

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

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

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

(a) List each tax expenditure;

(b) Identify the statutory authority for each tax expenditure;
(c) Describe the purpose of each tax expenditure;
(d) Estimate the amount of revenue loss caused by each tax expenditure for the coming biennium;
(e) List the actual amount of revenue loss in the preceding biennium for each tax expenditure or an estimate if the actual amount cannot be determined;
(f) Determine whether each tax expenditure is the most fiscally effective means of achieving each purpose of the tax expenditure;
(g) Determine whether each tax expenditure has successfully achieved the purpose for which the tax expenditure was enacted and currently serves, including an analysis of the persons that are benefited by the expenditure; and
(h) Categorize each tax expenditure according to the programs or functions each tax expenditure supports. [1995 c.746 §65]

291.204 Prescribing forms for submitting budget estimates and requests for appropriations; furnishing budget forms to agencies. The Oregon Department of Administrative Services, by July 1 of each even-numbered year, shall furnish every state agency with a sufficient number of forms for its use in preparing for submission to the Governor the information required by the Governor in the preparation of the budget report of the Governor. The Governor shall prescribe the forms to be used by the agencies in submitting their budget estimates and requests for appropriations as required by ORS 291.208.

291.206 Guidance of agencies in completing budget forms. (1) The Governor shall prescribe such rules and regulations as the Governor deems necessary for the guidance of agencies in the preparation of the budget estimates and requests. The Governor, with the approval of the Secretary of State, shall prepare and prescribe classifications of expenditures and revenue for the purpose of budget-making and accounting.
(2) In so far as practicable, agency budget estimates and requests and appropriation measures shall be prepared in a manner that reflects state governmental organization and state agency duties, functions and powers under the law in effect on January 1 of the following year. The Oregon Department of Administrative Services shall maintain agency budget estimates and requests in the form in which they are submitted. [Amended by 1969 c.173 §1]

291.208 Filing budget forms with department; preparing requests for agencies failing to file. Each state agency shall file with the Oregon Department of Administrative Services, before September 1 in each even-numbered year, on the form and in the manner required, its budget forms containing the information required. The department shall prepare budget estimates and requests for appropriations for all agencies that fail to file requests.

291.210 Preparing tentative budget plan and tax expenditure report. (1) The Oregon Department of Administrative Services, in connection with its direct studies of the operations, plans and needs of state agencies and of the existing and prospective sources of income, shall prepare a tentative budget plan and tentative tax expenditure report for the two fiscal years for which a budget report and tax expenditure report are required to be prepared.
(2) The Department of Revenue shall advise and assist in the preparation of the tentative tax expenditure report. [Amended by 1995 c.746 §66]

291.212 Revising budget plan; transmitting budget forms and tentative budget report to Governor. Upon receipt of the budget forms, the Oregon Department of Administrative Services shall check the agencies' estimates in the light of the tentative budget plan and shall make such further inquiries and investigations as the Governor requires and revise its tentative budget plan accordingly. The department then shall transmit to the Governor the budget forms filed with it by the state agencies and the revised tentative budget report.

291.214 Governor to examine budget forms and revise tentative budget or tax expenditure report. The Governor, during the preparation of the budget report and before its submission to the Legislative Assembly, shall:
(1)(a) Examine the budget forms filed by the various agencies and may make or cause to be made such further investigations by the Oregon Department of Administrative Services, with such hearings before the Governor or any state agency, as the Governor deems advisable, and may make such changes or revisions in policy and program and in specific details of the tentative budget report or tentative tax expenditure report as the Governor finds warranted; and
(b) Identify each tax expenditure that has a full or partial sunset that, if allowed to take effect, will have a fiscal impact on the state or on school districts for the next biennium, and shall prepare a recommendation as to each tax

expenditure identified under this paragraph that indicates the Governor's opinion on whether the full or partial sunset of the tax expenditure should be allowed to take effect as scheduled or should be revised to a different date.

(2) As used in this section:

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

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

291.216 Governor's budget report; when due; content; alternative budget plan. (1) Not later than November 10 of each even-numbered year the Governor shall cause the budget report to be compiled and prepared for printing.

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

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

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

(5) The budget report shall embrace the detailed estimates of expenditures and revenues. It shall include statements of the bonded indebtedness of the state government, showing the actual amount of the debt service for at least the past biennium, and the estimated amount for the current biennium and the ensuing biennium, the debt authorized and unissued, the condition of the sinking funds and the borrowing capacity. It shall contain the Governor's recommendations concerning tax expenditures identified under ORS 291.214. It shall also contain any statements relative to the financial plan which the Governor may deem desirable or which may be required by the legislature.

(6) The budget plan shall use the estimated revenues under ORS 291.342 for the fiscal year in which the plan is submitted as the basis for total anticipated income under subsection (2) of this section, subject to such adjustment as may be necessary to reflect accurately projections for the next biennium.

(7) As supplemental information to the budget report, the Governor shall publish an existing level tentative budget plan for the two fiscal years for which the budget report is required. This summary budget shall reflect only existing revenues estimated under subsection (6) of this section; subject to such adjustment as may be necessary to reflect accurately projections for the next biennium. The supplemental information to the budget report shall be submitted at the same time as the budget report.

(8)(a) The budget report shall present information regarding the expenses of the state in the following categories:

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

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

(C) Capital construction.

(D) Capital outlay.

(E) Debt service.

(b) For each category described in paragraph (a) of this subsection, the report shall show actual expenditures to date.

(c) For each category described in paragraph (a) of this subsection, the report shall show:

(A) The amount of merit increases for the existing workforce.

(B) Increases for the cost of replacement and repair of supplies and equipment.

(C) Increases for the costs of new construction or major remodeling.

(D) Increases for the cost of inflation.

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

(9) The budget report shall include:

(a) The total number of positions included in the budget.

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

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

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

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

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

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

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

(12) As supplemental information to the budget report, the Governor shall prepare an alternative budget plan for the two fiscal years for which the budget report is required and shall provide the alternative budget plan to the President of the Senate, the Speaker of the House of Representatives and the majority and minority leaders in the Senate and the House of Representatives. The alternative budget plan shall establish funding for each state agency's programs and activities at 90 percent of the appropriations requested for the state agency in the budget report, excluding appropriations that are not made to fund recurring activities. For each state agency, the Governor shall describe the 10 percent reduction in appropriated moneys in terms of the activities or programs that the agency will not undertake. The activities or programs that are not undertaken as a result of the reductions in appropriated moneys made in the alternative budget plan shall be ranked in order of importance and priority on the basis of lowest cost for benefit obtained. [Amended by 1985 c.270 §2; 1993 c.724 §9; 1995 c.746 §68; 1995 c.787 §1; 1997 c.49 §3; 1997 c.249 §88; 1999 c.1091 §1]

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

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

(2) Not later than December 1 of each even-numbered year, the Governor shall transmit a copy of each report to each member of the legislature who is to serve during the next session.

(3) Upon request, the Governor shall distribute copies free of charge, under such regulations as the Governor may establish, to public libraries, schools and state officials. The Governor shall make copies available to the general public at a reasonable charge for each copy. [Amended by 1959 c.140 §1; 1967 c.302 §1; 1995 c.746 §69]

291.220 Furnishing information and assistance to legislature. The Governor, upon request, shall furnish the Legislative Assembly any further information required concerning the budget report and the tax expenditure report. The Oregon Department of Administrative Services, upon request, shall furnish a representative to assist the Legislative Assembly, its Joint Committee on Ways and Means, appointed under ORS 171.555, and the Legislative Revenue Officer in the consideration of the budget report, the tax expenditure report and any accompanying measures. [Amended by 1969 c.173 §2; 1975 c.789 §8; 1995 c.746 §70]

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

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

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

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

(4)(a) Not later than the convening of the next Legislative Assembly the Oregon Department of Administrative Services shall transmit a copy of a summary of the revised budget report containing the revenue and expenditure recommendations of the Governor-elect and a summary of the revised tax expenditure report estimating the amount of revenue loss caused by each tax expenditure.

(b) Not later than February 1, the Oregon Department of Administrative Services shall transmit a copy of the revised budget report and revised tax expenditure report to each member of the Legislative Assembly.

(5) Upon request, the department shall distribute copies of the revised budget report and revised tax expenditure report free of charge, under such regulations as it may establish, to public libraries, schools and state officials. It shall make copies of the revised budget report and revised tax expenditure report available to the general public at a reasonable charge for each copy. [Amended by 1967 c.302 §2; 1969 c.464 §3; 1995 c.746 §71]

291.223 Furnishing agency budget estimates to Legislative Fiscal Officer and Legislative Revenue Officer; confidentiality of estimates. (1) Not later than November 10 of each even-numbered year the Governor shall cause the agency budget estimates and requests as described in ORS 291.206 to be made available to the Legislative Fiscal Officer and to the Legislative Revenue Officer.

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

291.224 Capital construction program to be included in budget report; recommendation of Capitol Planning Commission. (1) A capital construction program containing estimated capital construction needs, irrespective of how financed, shall be included with the budget report required by ORS 291.216. The capital construction program shall contain the estimated physical construction requirements for each biennium of a period to be determined by the Governor, which period shall not be less than six years. The Oregon Department of Administrative Services shall assist the Governor in the preparation of the capital construction program.

(2) Except as otherwise provided in subsection (3) of this section and in accordance with regulations prescribed by the department, state agencies shall submit to the department their anticipated capital construction requirements for the period specified by the Governor. The department shall prescribe the basic assumptions relating to population changes, economic trends and other factors which might generally affect capital construction requirements and these basic assumptions shall be used by the state agencies in preparing their anticipated capital construction requirements. Each state agency is responsible for the basic assumptions which affect only its own program. The department shall prepare estimated capital construction requirements for any necessary capital construction not covered by the capital construction requirements submitted by the state agencies under this section.

(3) Each state agency, including the department, required under subsection (2) of this section to submit or prepare anticipated or estimated capital construction requirements, shall submit a copy of such requirements that relate to construction or improvements within the areas described in ORS 276.028 to the Capitol Planning Commission at a time specified by the Capitol Planning Commission, but not later than August 1 of each even-numbered year. The Capitol Planning Commission shall review capital construction requirements submitted as required by this subsection and, not later than November 1 of each even-numbered year, make recommendations to the department with respect to such capital construction proposals.

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

(5) The Governor shall consolidate the estimates, review all of them and make such revisions as the Governor finds warranted.

(6) The budget report shall include the proposed expenditures for the capital construction program for the ensuing biennium and the proposed expenditures for preliminary planning of the construction projects included in the capital construction program for the biennium following the ensuing biennium. The budget report shall also include dollar estimates of the cost of the capital construction projects included in the capital construction program for the succeeding years of the period determined by the Governor under subsection (1) of this section and the recommendations submitted to the department pursuant to subsection (3) of this section.

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

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

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

(c) Road infrastructure work performed under timber sale contracts entered into by the State Forester. [1959 c.500 §1; 1973 c.129 §5; 1989 c.904 §30; 1997 c.285 §4]

291.226 Budget item to replace lost and unrecovered public funds or property. When there has been a failure to recover a loss of public funds or property pursuant to ORS 297.120, the state agency sustaining the loss shall include the amount of the loss in its budget estimate and request for the following biennium clearly marked as to purpose, and the Governor shall include such item in the budget report of the Governor for the consideration of the Legislative Assembly. [1963 c.617 §3]

291.228 Governor’s report on budget amounts for education. (1) The Governor shall publish a report that:

(a) Demonstrates that the amount within the Governor’s budget appropriated for the state’s system of kindergarten through grade 12 public education is the amount of moneys as determined by the Quality Education Commission that is sufficient to meet the quality goals; or

(b) Identifies the reasons that the amount appropriated for the state’s system of kindergarten through grade 12 public education is not sufficient, the extent of the insufficiency and the impact of the insufficiency on the ability of the state’s system of kindergarten through grade 12 public education to meet the quality goals. In identifying the impact of the insufficiency, the Governor shall include in the report how the amount appropriated in the Governor’s budget may affect both the current practices and student performance identified by the commission under ORS 327.506 (4)(a) and the best practices and student performance identified by the commission under ORS 327.506 (4)(b).

(2) The Governor shall identify in the report whether the state’s system of post-secondary public education has quality goals established by law. If there are quality goals, the Governor shall include in the report a determination that the amount appropriated in the Governor’s budget is sufficient to meet those goals or an identification of the reasons the amount appropriated is not sufficient, the extent of the insufficiency and the impact of the insufficiency on the ability of the state’s system of post-secondary public education to meet the quality goals.

(3) The report shall be issued at the same time as the Governor’s budget report required under ORS 291.202.

(4) The Governor shall provide public notice of the report’s issuance, including posting the report on the Internet and providing a print version of the report upon request. [2001 c.895 §6]

Note: 291.228 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 291 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

ALLOTMENTS

291.232 Declaration of policy. It is declared to be the policy and intent of the Legislative Assembly that the total appropriations made by it, or the total of any budget approved by it, for any state agency, shall be deemed to be the maximum amount necessary to meet the requirements of such agency for the biennium, excepting as may otherwise be provided by law, and that the Governor and the Oregon Department of Administrative Services are given the powers granted by ORS 291.201 to 291.222 and 291.232 to 291.260 in order that savings may be effected by careful supervision throughout each biennium, with due regard to changing conditions, and by promoting more economic and efficient management of state agencies.

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

(2) For the purposes of the allotment system, each fiscal year shall be divided into four quarterly allotment periods, beginning, respectively, on the first days of July, October, January and April. The department may prescribe a different period suited to the circumstances or may exempt agencies that have demonstrated to the department’s satisfaction that the appropriate fiscal controls are in place. [Amended by 1993 c.724 §4]

291.236 Application of allotment system; controlling expenditures and encumbering of emergency,

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

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

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

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

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

291.240 [Repealed by 1953 c.168 §4]

291.242 Allotment required before expenditure of appropriation; submitting estimates. No appropriation to which the allotment system is applicable shall become available to any state agency for expenditure thereby during any allotment period until:

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

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

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

291.246 Allotments to be made for purpose or classification of expenditure prescribed in appropriation measure. Allotments shall be made according to purpose and classification of expenditures prescribed in the appropriation measure as enacted by the Legislative Assembly; provided, however, that the Oregon Department of Administrative Services may make allotments for agencies by purposes or by other classification of expenditures of amounts appropriated or authorized to be expended in appropriation measures enacted by the Legislative Assembly, whether or not such measures establish classification of expenditures. In making allotments, the department shall not authorize the expenditure of moneys for any purpose not authorized by the Act appropriating the money or authorizing it to be expended, and the funds allotted for each purpose or classification of expenditure shall be used for no other purpose or classification of expenditure. [Amended by 1963 c.182 §7]

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

291.250 Claims and encumbrances limited by amount and purpose of allotment. The agency shall not create

any claim or encumbrance for the future disbursement of appropriated moneys unless the proposed expenditure as estimated, together with expenses theretofore paid from or encumbered against such allotment, is within the total amount and for the purposes specified in the notice of allotment transmitted to such agency.

291.252 Modifying allotment previously made. The Oregon Department of Administrative Services may at any time modify or amend any allotment previously made by it, upon application of, or upon notice to, the agency concerned, but no such modification or amendment shall reduce an allotment below the amount required to meet valid obligations or commitments previously incurred against the allotted funds.

291.254 Reducing allotment to prevent deficit. If the Oregon Department of Administrative Services determines at any time that the probable receipts from taxes or any other sources for any appropriation will be less than was anticipated, and that consequently the amount available for the remainder of the term of the appropriation or for any allotment period will be less than the amount estimated or allotted therefor, the department shall, with the approval of the Governor, and after notice to the agency or agencies concerned, reduce the amount allotted or to be allotted so as to prevent a deficit.

291.256 [Repealed by 1959 c.608 §1]

291.258 Approval of department required for establishment of new personnel position or classification. A new personnel position or classification, not provided in the budget of an agency upon which appropriations have been based, shall not be established without prior approval of the Oregon Department of Administrative Services.

291.260 Approving, modifying or disapproving requests and budgets to be submitted to the federal government. Every state agency, when making requests or preparing budgets to be submitted to the federal government for funds, equipment, materials or services, other than for highway purposes, and purposes for which the state was legally committed on August 2, 1951, shall, upon completion of such request or budget, first submit it to the Oregon Department of Administrative Services. The department shall have authority to approve, disapprove, modify or amend any such request or budget before it is submitted to the proper federal authority.

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

291.263 Vacant positions; information to Oregon Department of Administrative Services. (1) As used in this section, “state agency” has the meaning given that term in ORS 192.072.

(2) A state agency shall inform the Oregon Department of Administrative Services of any position that has remained vacant for a continuous period of six months by including a report on the position in the estimate submitted to the department under ORS 291.242. The department may consider the vacancy in its determinations under ORS 291.244 and may reduce the amount allotted to the state agency. [2001 c.858 §1]

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

ALLOCATION OF GOVERNMENTAL SERVICE EXPENSES

291.272 Definitions for ORS 291.272 to 291.280. As used in ORS 291.272 to 291.280, unless the context requires otherwise:

(1) “Administrative expenses” has the meaning defined by ORS 291.305.

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

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

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

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

(c) Sixty percent of the expenditures incurred in the administration of the duties of the Joint Committee on Ways

and Means and the Emergency Board.

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

(e) Expenditures of the Secretary of State in the administration of the office of the State Archivist, of historic properties programs, and of the administrative rules publication program.

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

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

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

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

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

291.276 Department to allocate governmental service expenses among state agencies. (1) With respect to each biennium beginning on July 1 of an odd-numbered year, commencing July 1, 1971, the Oregon Department of Administrative Services shall allocate among all state agencies the governmental service expenses, as determined by the department in accordance with ORS 291.272, for the biennium ending two years prior to the beginning of the biennium for which the allocation is made.

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

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

(4) The department, with the approval of the Governor, may make rules necessary or proper to carry out the duties imposed upon it by ORS 291.272 to 291.280.

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

291.278 Transfer of allocated amounts to General Fund. (1) Upon completion of the determination by the Oregon Department of Administrative Services under ORS 291.274 and 291.276, the department shall transfer to the General Fund, with appropriate notice to the State Treasurer, out of moneys appropriated to each state agency, the amount of governmental service expenses so certified for the agency.

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

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

(b) Paid to the State Treasurer by the state agency receiving such moneys at the time when they are received by the state agency if such moneys are authorized by law to be kept and disbursed other than by and through the State

Treasurer, and be credited by the State Treasurer to and made a part of the General Fund available for general governmental purposes.

(3) The transfer and payment to the General Fund required by this section shall be made notwithstanding any law that appropriates such moneys or any of them to any other purposes, and such portion so paid and transferred is not subject to any special uses thereby provided. [1967 c.637 §5]

291.280 Receipts by State Treasurer for transferred moneys. In receipting for moneys paid and transferred under ORS 291.278 (2), the State Treasurer shall make the receipt in duplicate, showing the amount credited to the General Fund available for general governmental purposes as well as the amount credited to any special fund or account. The State Treasurer shall file one of the duplicate receipts with the Oregon Department of Administrative Services. [1967 c.637 §6]

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

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

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

Note: See note under 291.285.

291.302 [Repealed by 1953 c.386 §9]

291.304 [Repealed by 1953 c.386 §9]

ACTS APPROPRIATING MONEY OR LIMITING EXPENDITURES

291.305 Meaning of “administrative expenses” in law appropriating money or limiting expenditures; limitation not appropriation of money otherwise unavailable to agency. (1) As used in the laws enacted by the Legislative Assembly appropriating money or limiting expenditures, the term “administrative expenses” means, unless the context requires otherwise, those expenditures that are included under the classifications of expenditures, except debt service and special payments expenditure categories, which are prepared and prescribed, pursuant to ORS 291.206, for the purpose of budget-making and accounting during the biennium for which such laws appropriating money or limiting expenditures are enacted.

(2) In the laws enacted by the Legislative Assembly, the establishment of maximum limits for expenditures from, or for the payment of administrative expenses from, fees, moneys or other revenues collected or received by any agency is not intended as an appropriation of moneys not otherwise available to such agency. [1963 c.182 §§1,3]

291.306 [Repealed by 1953 c.386 §9]

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

291.308 [Repealed by 1953 c.386 §9]

291.310 [Repealed by 1953 c.386 §9]

EMERGENCY EXPENDITURES; EMERGENCY BOARD

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

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

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

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

291.326 Powers of board concerning expenditures by state agencies. (1) The Emergency Board, during the interim between sessions of the Legislative Assembly, may exercise the following powers:

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

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

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

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

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

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

291.328 Board may require presentation of evidence to support requests for action; board to report its action to agencies concerned. Before the Emergency Board makes any allocation, grants any authorization or approves any budget under ORS 291.326, it may require the state agency in question to submit written evidence to justify the allocation, authorization or approval and may require the head of the agency to appear before it in support thereof. The Emergency Board may also require the Director of the Oregon Department of Administrative Services to submit a written report as to the need and justification for the allocation, authorization or approval. Upon making an allocation, granting an authorization or approving a budget, the Emergency Board shall file with the department, the Secretary of State and the state agency in question a copy of the order of allocation, grant of authorization or approved budget. [1953 c.386 §4]

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

291.332 Meetings of board; terms of members; filling vacancies on board. (1) The Emergency Board shall

meet immediately upon adjournment of each Legislative Assembly and elect a chairman from their number. The board shall meet thereafter at such times as it may determine.

(2) The term of members of the board shall run from the adjournment of one regular session to the organization of the next regular session.

(3) If a vacancy occurs in the board, either the Speaker, if the legislator previously filling the position was a member of the House, or the President, if the legislator previously filling the position was a member of the Senate, shall fill such vacancy by an appointment for the unexpired term. However, such appointment, before becoming effective, shall be confirmed by the remaining members of the board, sitting as such board. [1953 c.386 §6]

291.334 Board authorized to secure assistance; payment of board expenses. (1) The Director of the Oregon Department of Administrative Services, upon request of the board, shall furnish necessary assistance to the board, or the board may employ such assistance as they may deem necessary.

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

291.336 Appropriation bills requiring approval of board before project commenced or contract let; how requirement met. (1) As used in this section, “appropriation bill” means a legislative Act which appropriates money or authorizes the expenditure of dedicated or continuously appropriated moneys or otherwise makes moneys available for expenditure.

(2) In all cases where an appropriation bill heretofore or hereafter passed provides that a state agency shall not commence any project or allow any contract to be let for any project without having the approval of the Emergency Board, such requirement may be met:

(a) During any period when the Legislative Assembly is in session, by the adoption of a resolution by each house approving the proposed action; or

(b) During any period when the Legislative Assembly is not in session, either by approval of the Emergency Board as provided in the appropriation bill, or by the elapse of 45 days without adverse action of the Emergency Board after notice of the proposed action has been given to each member of the Emergency Board at the last-known address of the member. [1957 c.382 §1]

ESTIMATES OF STATE REVENUES

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

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

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

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

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

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

291.348 Biennial estimate of General Fund and State Lottery Fund revenues; certification to Secretary of State. (1) The Oregon Department of Administrative Services, with the assistance of the Secretary of State, as soon as possible after June 30, 1966, and each even-numbered year thereafter, shall ascertain the total of General Fund revenues obtained from all sources during the preceding fiscal year, so far as is practicable.

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

(3) As used in this section:

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

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

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

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

(3) If the revenues received from the corporate income and excise taxes during the biennium exceed the amounts estimated to be received from such taxes for the biennium, as estimated after adjournment sine die of the regular session, by two percent or more, the total amount of that excess shall be credited to corporate income and excise taxpayers in a percentage amount of corporate excise and income tax liability as determined under subsection (5) of this section. However, no credit shall be allowed against tax liability imposed by ORS 317.090.

(4) If the revenues received from General Fund revenue sources, exclusive of those described in subsection (3) of this section, during the biennium exceed the amounts estimated to be received from such sources for the biennium, as estimated after adjournment sine die of the regular session, by two percent or more, there shall be refunded from personal income tax revenues an amount equal to the total amount of that excess, reduced by the cost certified by the Department of Revenue under ORS 291.351 as being allocable to payments described under this subsection. The excess amount to be refunded shall be paid to personal income taxpayers in a percentage amount of prior year personal income tax liability as determined under subsection (6) of this section.

(5) If there is an excess to be credited under subsection (3) of this section, on or before October 1, following the end of each biennium, the Oregon Department of Administrative Services shall determine and certify to the Department of Revenue the percentage amount of credit for purposes of subsection (3) of this section. The percentage amount determined shall be a percentage amount to the nearest one-tenth of a percent that will distribute the excess to be credited to corporate excise and income taxpayers for taxable years beginning in the calendar year during which the excess is determined. The credit shall be computed after the allowance of any other credit or offset against tax liability allowed or allowable under any provision of law of this state, and before the application of estimated tax payments, withholding or other advance tax payments.

(6)(a) If there is an excess to be refunded under subsection (4) of this section, on or before September 15, following the end of each biennium, the Oregon Department of Administrative Services shall determine and certify to the Department of Revenue the percentage amount of refund payment for purposes of subsection (4) of this section. The percentage amount so determined shall be a percentage amount to the nearest one-hundredth of a percent that will

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

(b) The Department of Revenue shall multiply the percentage amount determined under paragraph (a) of this subsection by the total amount of a personal income taxpayer's tax liability for the tax year beginning in the calendar year immediately preceding the calendar year in which the excess is determined in order to calculate the amount of the refund to be made to the taxpayer.

(c) The refund described under this subsection shall be subject to the rules allowing setoff of refunds or sums due debtors of this state under ORS 293.250.

(d) The refund described under this subsection shall be mailed by the Department of Revenue to personal income taxpayers eligible for the payment on or before December 1 following the end of the biennium for which the payment described under this subsection is being made.

(e) Notwithstanding paragraph (d) of this subsection, the Department of Revenue shall mail the refund at the earliest date of practicable convenience in the case of a return:

(A) For a tax year beginning in the calendar year immediately preceding the calendar year in which the excess is determined for which refund is being made; and

(B) That is first filed on or after August 15 after the end of the biennium.

(7) No refund shall be made to a taxpayer if, after making the calculation described under subsection (6) of this section, the amount calculated is less than $1. [1979 c.241 §30; 1981 c.885 §1; 1985 c.828 §19; 1995 c.815 §2; 1997 c.99 §1; 1997 c.654 §4; 1999 c.23 §1; 1999 c.73 §5]

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

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

291.351 Certification of refund costs. If, based on the report made under ORS 291.349 (2), refund will be made under ORS 291.349 (4), the Department of Revenue shall certify the costs that are incurred in calculating and making the refunds under ORS 291.349 (4). Costs shall be certified by the department within 15 days of the date the report under ORS 291.349 (2) is made. As used in this section, "costs" means and is limited to those costs that, absent the requirement of making a refund under ORS 291.349 (4), would not be incurred by the department. [1995 c.815 §4; 1999 c.23 §2]

Note: 291.351 and 291.353 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 291 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

291.352 [Renumbered 293.105]

291.353 Surplus Kicker Cost Account. (1) The Surplus Kicker Cost Account is established in the General Fund of the State Treasury.

(2) Upon cost certification by the Department of Revenue under ORS 291.351, an amount equal to the total amount certified shall be credited from the General Fund to the Surplus Kicker Cost Account. All moneys in the account are appropriated continuously to the Department of Revenue for the purpose of carrying out the provisions of ORS 291.349. [1995 c.815 §5]

Note: See note under 291.351.

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

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

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

RATE OF GROWTH OF APPROPRIATIONS

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

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

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

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

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

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

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

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

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

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

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

(c) Appropriations for fee remission programs of the Department of Higher Education.

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

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

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

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

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

291.358 [Renumbered 293.120]

291.360 [Renumbered 293.125]

291.362 [Renumbered 293.130]

291.364 [Renumbered 293.135]

291.366 [Renumbered 293.140]

291.368 [Renumbered 293.145]

291.370 [Renumbered 293.150]

LEGISLATIVE REVIEW

291.371 Salary plan review by legislative review agency; approval for position reallocation; Human Services

and Corrections Departments to submit special reports; transfer of vacant position authority. (1) As used in this section, "legislative review agency" means the Joint Committee on Ways and Means during the period when the Legislative Assembly is in session and the Emergency Board during the interim period between sessions.

(2) Prior to making any changes in a salary plan, the Oregon Department of Administrative Services shall submit the proposed changes to the legislative review agency.

(3)(a) The Oregon Department of Administrative Services may approve the reallocation of positions or the establishment of new positions not specifically provided for in the budget of the affected agency if it finds that the proposed change:

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

(B) Will not produce future budgetary increases; and

(C) Conforms to legislatively approved salary policies.

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

(4) Agencies within the Department of Human Services and the Department of Corrections shall report on a biennial basis to the legislative review agency. Each report shall include the number of vacant budgeted positions, including all job categories and classifications, within the agency. The legislative review agency shall order the reporting agency to show cause why the budgeted positions have not been filled and shall assess fully the impact the vacancies have on:

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

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

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

(d) Employee workload.

(5) It is declared to be the policy of this state that the total personal services, budget and full-time equivalent positions approved for any state agency shall be the maximum amount necessary to meet the requirements of the agency for the biennium. Notwithstanding ORS 291.232 to 291.260, the Governor and the Oregon Department of Administrative Services may transfer vacant position authority among and within state agencies to achieve maximum utilization of authorized positions within agencies. [1973 c.49 §1; 1985 c.713 §1; 1989 c.960 §1; 1993 c.724 §13; 1995 c.452 §16]

291.372 [Renumbered 293.155]

291.373 Agency report to legislative committees of substantive program changes; rules. (1) As used in this section, "state agency" has the meaning given that term in ORS 291.002.

(2) A state agency shall report, as provided in this section, to the appropriate committee of the Legislative Assembly if the agency makes substantive changes in programs after the agency's budget is approved by the Legislative Assembly.

(3) The Oregon Department of Administrative Services shall adopt rules defining what constitutes a substantive program change for purposes of this section. When an agency has made a substantive program change as defined by the department, the agency shall notify the department of the change. The department shall notify the Speaker of the House of Representatives and the President of the Senate of substantive program changes made by state agencies.

(4) Based upon information submitted by the Oregon Department of Administrative Services under subsection (3) of this section, the Speaker of the House of Representatives and the President of the Senate shall determine which committee is appropriate for each report that is to be made under subsection (2) of this section.

(5) A committee to which a report is to be made under subsection (2) of this section may request that the report be made orally or in writing.

(6) An agency need not report to a committee under subsection (2) of this section on any matter that the agency is required by ORS 291.371, 291.375 and 291.385 to report or present to the Emergency Board or to the Joint Committee on Ways and Means. [2001 c.425 §2]

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

291.375 Legislative review of applications for federal financial assistance; submission, approval required; exemptions. (1) Prior to the submission of any application for financial assistance or grants from the United States or

any agency thereof by or on behalf of any agency of this state, the application must be submitted for legislative review in the following manner:

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

(b) If the application is to be submitted to the federal government when the Legislative Assembly is not in session, the application shall be submitted to the Emergency Board for review.

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

(3) Notwithstanding subsection (1) of this section, the Joint Committee on Ways and Means and the Emergency Board may exempt any state agency from the requirements of this section. Project grants for departmental research, organized activities related to instruction, sponsored research or other sponsored programs carried on within the Department of Higher Education, for which no biennial expenditure limitations have been established, are exempt from the requirements of this section.

(4) The review required by this section is in addition to and not in lieu of the requirements of ORS 293.550. [1973 c.44 §1]

291.376 [Renumbered 291.307]

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

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

291.385 Use of certain federal moneys for employment; legislative approval. Expenditures of moneys available to this state or any agency thereof under the Emergency Job and Unemployment Assistance Act of 1974 (Public Law 93-567), and the Emergency Jobs Program Extension Act of 1976 (Public Law 94-444), as amended, are not limited by fixed sum appropriations or expenditure limitations imposed for the biennium beginning July 1, 1977, if authorized by the Joint Committee on Ways and Means after March 1, 1979. However, positions added under the provisions of the federal enabling legislation are subject to approval of the Emergency Board during the interim between sessions of the Legislative Assembly and by the Joint Committee on Ways and Means during a session of the Legislative Assembly. [1977 c.85 §1; 1979 c.93 §1; 1985 c.565 §46]

Note: 291.385 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 291 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

291.402 [Renumbered 293.205]

291.404 [Renumbered 293.210]

MASS TRANSIT ASSESSMENT

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

(2) State agencies subject to assessment under this section include every state officer, board, commission, department, institution, branch or agency of the state whose costs are paid wholly or in part from funds held in the State Treasury, and include the Legislative Assembly, the state courts and their officers and committees.

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

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

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

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

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

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

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

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

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

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

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

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

(7) After making determinations and establishing a rate under this section, the Oregon Department of Administrative Services may direct the assessment against the payrolls of subject agencies at the rate established by the department. All moneys assessed under this section shall be promptly forwarded to the Oregon Department of Administrative Services. Assessments under this section are administrative expenses of an agency, as defined in ORS 291.305.

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

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

291.406 [Renumbered 293.215]

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

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

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

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

(b) The Oregon Department of Administrative Services shall not distribute to a newly formed district during a calendar year an amount that exceeds the amount the budget approved by the district board proposes as revenue for the district from the district's own taxes during the current fiscal year of the district. If the district does not collect the proposed amount, the department shall make adjustments in the distributions during subsequent years to recover any amount paid under this section that is over the amount the district actually received under the district's own taxes.

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

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

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

Note: See note under 291.405.

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

291.410 [Renumbered 293.225]

291.432 [Renumbered 293.255]

291.434 [Renumbered 293.260]

291.436 [Renumbered 293.265]

291.438 [Renumbered 293.270]

291.440 [Renumbered 293.275]

291.442 [Renumbered 293.280]

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

291.444 [Renumbered 293.290]

PROCEDURE FOR DETERMINING WHETHER STATE PROPERTY TAX LEVY NECESSARY

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

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

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

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

(3) On or before August 15 of each fiscal year, the Accounting Division of the Oregon Department of Administrative Services, for each general obligation bond program in which the bond principal and interest is

ordinarily to be repaid from General Fund appropriations shall:

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

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

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

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

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

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

(7) For purposes of this section:

(a) State agencies that are authorized to issue general obligation bonds ordinarily to be repaid from other than General Fund appropriations include but are not limited to:

(A) The Department of Veterans' Affairs, as authorized by Article XI-A of the Oregon Constitution and ORS chapter 407 (veterans loans).

(B) The State Board of Higher Education, as authorized by Article XI-F(1) of the Oregon Constitution and ORS 351.350 (building projects).

(C) The Department of Environmental Quality, as authorized by Article XI-H of the Oregon Constitution and ORS 468.195 to 468.260 (pollution control).

(D) The Water Resources Commission and the Water Resources Director, as authorized by Article XI-I(1) of the Oregon Constitution and ORS 541.700 to 541.855 (water development).

(E) The Housing Agency, as authorized by Article XI-I(2) of the Oregon Constitution and ORS 456.515 to 456.725 and 458.505 to 458.515 (housing).

(F) The administrator of the Office of Energy, as authorized by Article XI-J of the Oregon Constitution and ORS 470.220 to 470.290 (small scale energy projects).

(G) Other agencies as required by the Oregon Department of Administrative Services by rule adopted using the criterion of this subsection.

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

(8)(a) State agencies that are authorized to issue general obligation bonds that are ordinarily to be repaid from General Fund appropriations include but are not limited to:

(A) The State Board of Forestry and the State Forester, as authorized by Article XI-E of the Oregon Constitution and ORS 530.210 to 530.280 (state reforestation).

(B) The State Board of Higher Education, as authorized by Article XI-G of the Oregon Constitution and ORS 351.345 (higher education and community colleges).

(C) Other agencies as required by the Oregon Department of Administrative Services by rule adopted using the criterion of this subsection.

(b) Each agency authorized to issue general obligation bonds ordinarily to be repaid from General Fund appropriations shall furnish any data required by the Oregon Department of Administrative Services to determine the amount of revenues or other funds that are available and the amount of taxes, if any, that should be levied for the ensuing year and the Accounting Division of the Oregon Department of Administrative Services shall make the determination for purposes of the making of the certification required under subsection (3) of this section. [Formerly 291.344; 1999 c.59 §75]

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

291.464 [Renumbered 293.310]

291.466 [Renumbered 293.315]

291.468 [Renumbered 293.320]

291.470 [Renumbered 293.325]

291.472 [Renumbered 293.330]

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

291.474 [Renumbered 293.340]

291.476 [Renumbered 293.345]

291.478 [Renumbered 293.350]

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

291.492 [Renumbered 293.405]

291.494 [Renumbered 293.410]

291.496 [Renumbered 293.415]

291.498 [Renumbered 293.420]

291.500 [Renumbered 293.425]

291.502 [Renumbered 293.430]

291.504 [Renumbered 293.435]

291.506 [Renumbered 293.440]

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

291.510 [Renumbered 293.450]

291.512 [Renumbered 293.455]

291.514 [Renumbered 293.460]

291.516 [Amended by 1959 c.410 §8; 1959 c.543 §1; renumbered 293.465]

291.518 [Amended by 1959 c.543 §5; 1961 c.77 §1; renumbered 293.470]

291.520 [Amended by 1959 c.543 §2; 1961 c.77 §2; renumbered 293.475]

291.522 [Amended by 1959 c.543 §3; renumbered 293.480]

291.524 [Renumbered 293.485]

291.526 [Amended by 1955 c.316 §1; renumbered 293.490]

291.528 [Amended by 1955 c.316 §2; 1959 c.543 §4; renumbered 293.495]

291.530 [Amended by 1955 c.316 §3; renumbered 293.500]

291.532 [Renumbered 293.555]

291.534 [Renumbered 293.560]

291.536 [Renumbered 293.565]

291.538 [Renumbered 293.570]

291.540 [Formerly 606.220; renumbered 293.575]

291.548 [1957 c.139 §§1, 2; 1959 c.682 §1; renumbered 293.180]

291.552 [Renumbered 293.605]

291.554 [Renumbered 293.610]

291.556 [Renumbered 293.615]

291.558 [Renumbered 291.022]

291.560 [Renumbered 291.024]

291.562 [Renumbered 291.026]

291.564 [Renumbered 293.620]

291.566 [Renumbered 293.625]

291.568 [Renumbered 293.630]

291.570 [Renumbered 293.635]

291.572 [Renumbered 293.640]

291.574 [Renumbered 293.645]

291.575 [1959 c.259 §1; renumbered 293.650]

291.576 [Amended by 1959 c.34 §1; renumbered 293.655]

291.578 [Amended by 1955 c.251 §1; renumbered 293.660]

291.602 [Repealed by 1959 c.157 §10]

291.604 [Amended by 1957 c.371 §1; renumbered 293.705]

291.606 [Amended by 1953 c.706 §2; 1957 c.371 §2; 1961 c.393 §1; 1963 c.520 §1; renumbered 293.710]

291.607 [1959 c.660 §14; 1961 c.508 §10; renumbered 293.715]

291.608 [Renumbered 293.720]

291.610 [Renumbered 293.735]

291.611 [1959 c.157 §3; renumbered 293.740]

291.612 [Amended by 1953 c.706 §2; 1957 c.371 §3; 1959 c.245 §1; 1961 c.375 §1; renumbered 293.745]

291.613 [1957 c.371 §4; renumbered 293.750]

291.614 [Renumbered 293.755]

291.616 [Renumbered 293.760]

291.618 [Renumbered 293.765]

291.620 [Renumbered 293.770]

291.622 [Repealed by 1953 c.530 §2]

291.624 [Repealed by 1953 c.530 §2]

291.630 [1957 c.330 §1; renumbered 293.790]

291.652 [Renumbered 283.210]

291.654 [Renumbered 283.220]

291.656 [Amended by 1953 c.60 §5; 1957 c.202 §2; 1961 c.167 §34; 1965 c.365 §7; renumbered 283.230]

291.658 [Amended by 1953 c.59 §2; 1957 c.202 §3; 1961 c.167 §35; 1965 c.365 §8; 1967 c.419 §44; renumbered 283.110]

291.659 [1961 c.167 §36; renumbered 283.130]

291.660 [Amended by 1959 c.662 §4; 1965 c.365 §9; renumbered 283.140]

291.662 [Amended by 1959 c.662 §5; 1965 c.365 §10; renumbered 283.150]

291.664 [Amended by 1959 c.662 §6; 1965 c.365 §11; renumbered 283.160]

291.666 [1953 c.61 §1; 1957 c.202 §4; renumbered 283.240]

291.668 [1953 c.61 §2; repealed by 1957 c.202 §6]

291.670 [1957 c.202 §7; 1965 c.365 §12; 1967 c.419 §45; renumbered 283.120]

291.678 [1957 c.202 §1; subsection (2) of 1965 Replacement Part enacted as 1963 c.182 §4; 1965 c.351 §3; renumbered 283.250]

291.702 [Amended by 1961 c.167 §37; renumbered 283.305]

291.704 [Renumbered 283.310]

291.706 [Renumbered 283.315]

291.708 [Amended by 1959 c.662 §19; 1967 c.419 §42; renumbered 283.320]

291.710 [Renumbered 283.325]

291.712 [Renumbered 283.330]

291.714 [Renumbered 283.335]

291.716 [Renumbered 283.340]

291.718 [Renumbered 283.345]

291.720 [Amended by 1953 c.603 §4; 1955 c.46 §1; 1959 c.662 §17; renumbered 283.350]

291.722 [Amended by 1959 c.662 §20; renumbered 283.355]

291.724 [Amended by 1955 c.260 §1; renumbered 283.390]

291.726 [Renumbered 283.395]

PENALTIES

291.990 Penalties. (1) Any person who makes or orders or votes to make any expenditure in violation of any of the provisions of ORS 279.805, 279.826, 279.828, 283.010, 283.020, 283.110, 283.130 to 283.160 and 283.305 to 283.390 or 291.001 to 291.034, 291.201 to 291.222, 291.232 to 291.260 and 291.307, or who makes or authorizes or causes to be made any disbursement of funds from the State Treasury in violation of any of the provisions of ORS 279.805, 279.826, 279.828, 283.010, 283.020, 283.110, 283.130 to 283.160 and 283.305 to 283.390 or 291.001 to 291.034, 291.201 to 291.222, 291.232 to 291.260 and 291.307, commits a violation, and shall, upon conviction, be punished by a fine of not less than $500 nor more than $3,000.

(2) If any person incurs or orders or votes to incur an obligation in violation of any of the provisions of ORS 279.805, 279.826, 279.828, 283.010, 283.020, 283.110, 283.130 to 283.160 and 283.305 to 283.390 or 291.001 to 291.034, 291.201 to 291.222, 291.232 to 291.260 and 291.307, the person and the sureties on the bond of the person shall be jointly and severally liable therefor to the person in whose favor the obligation was incurred.

(3) Upon certification by the Oregon Department of Administrative Services that any state officer or employee of a state agency has failed or refused to comply with any order, rule or regulation made by the department in accordance with the provisions of ORS 279.805, 279.826, 279.828, 283.010, 283.020, 283.110, 283.130 to 283.160 and 283.305 to 283.390 or 291.001 to 291.034, 291.201 to 291.222, 291.232 to 291.260 and 291.307, the salary of such officer or

employee shall not be paid until such order, rule or regulation is complied with.

(4) Any violation of ORS 279.805, 279.826, 279.828, 283.010, 283.020, 283.110, 283.130 to 283.160 and 283.305 to 283.390 or 291.001 to 291.034, 291.201 to 291.222, 291.232 to 291.260 and 291.307, for which no other penalty is provided in this section, is a Class A violation. [Amended by 1953 c.530 §2; 1955 c.260 §2; subsections (2) and (3) of 1961 Replacement Part renumbered 293.990; 1967 c.419 §14; subsection (2) of 1965 Replacement Part renumbered 283.990; 1993 c.500 §44; 1997 c.249 §89; 1999 c.1051 §172]