

Enrolled
Senate Bill 581

Sponsored by JOINT COMMITTEE ON WAYS AND MEANS

CHAPTER

AN ACT

Relating to state financial administration; creating new provisions; amending ORS 411.877, 411.878, 411.882, 411.886, 411.888, 411.889, 411.890, 411.892, 657.190 and 805.256; repealing ORS 411.884 and 657.925; appropriating money; and declaring an emergency.

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

ADMINISTRATIVE

SECTION 1. Notwithstanding ORS 293.537, the amount of \$6,000,000 is transferred from the Tobacco Settlement Funds Account to the General Fund for general governmental purposes.

SECTION 2. Notwithstanding ORS 30.282 and 278.425, the amount of \$20,200,000 is transferred from the Insurance Fund to the General Fund for general governmental purposes.

SECTION 3. Notwithstanding ORS 243.880 and section 25 (2), chapter 7, Oregon Laws 2007, the amount of \$4,996,081 is transferred from the Oregon Educators Benefit Account to the General Fund for general governmental purposes.

SECTION 4. The amount of \$74,470 is transferred from the suspense account established pursuant to ORS 310.692 (1985 Edition) for the homeowner and renter refund program to the General Fund for general governmental purposes.

SECTION 5. For the biennium ending June 30, 2009:

(1) Notwithstanding ORS 471.810 (1)(a), the amount credited to the General Fund under ORS 471.810 (1)(a) is increased by \$2,248,840;

(2) Notwithstanding ORS 471.810 (1)(b), the amount paid to the cities of this state under ORS 471.810 (1)(b) is reduced by \$1,022,200;

(3) Notwithstanding ORS 471.810 (1)(c), the amount paid to the counties of this state under ORS 471.810 (1)(c) is reduced by \$511,100; and

(4) Notwithstanding ORS 471.810 (1)(d), the amount paid to the cities of this state under ORS 471.810 (1)(d) is reduced by \$715,540.

CONSUMER AND BUSINESS SERVICES

SECTION 6. Notwithstanding ORS 652.409, the amount of \$3,000,000 is transferred from the Wage Security Fund to the General Fund for general governmental purposes.

ECONOMIC DEVELOPMENT

SECTION 7. Notwithstanding ORS 461.547, from moneys that would otherwise be transferred to counties in the fiscal quarter beginning April 1, 2009, under ORS 461.547, the amount of \$2,000,000 is transferred to the Administrative Services Economic Development Fund.

SECTION 8. Notwithstanding ORS 285B.215, the amount of \$3,300,000 is transferred from the Credit Enhancement Fund to the General Fund for general governmental purposes.

SECTION 9. Notwithstanding ORS 359.400 to 359.444, the amount of \$1,800,000 is transferred from the Trust for Cultural Development Account to the General Fund for general governmental purposes.

SECTION 10. Notwithstanding ORS 759.445, the balance in the Connecting Oregon Communities Fund is transferred to the General Fund for general governmental purposes.

SECTION 11. Notwithstanding ORS 285A.227, the amount of \$93,296 is transferred from the Oregon Community Development Fund to the General Fund for general governmental purposes.

SECTION 12. Notwithstanding ORS 285B.266, the amount of \$75,000 is transferred from the Strategic Reserve Fund to the General Fund for general governmental purposes.

SECTION 13. Notwithstanding ORS 657.822, the amount of \$4,700,000 is transferred from the Employment Department Special Administrative Fund to the General Fund for general governmental purposes.

SECTION 14. Notwithstanding ORS 657.925, the balance in the Oregon JOBS Plus Unemployment Wage Fund is transferred to the General Fund for general governmental purposes.

EDUCATION

SECTION 15. Notwithstanding ORS 326.373, the amount of \$500,000 is transferred from the Department of Community Colleges and Workforce Development Account to the General Fund for general governmental purposes.

SECTION 16. Notwithstanding ORS 327.294, out of interest earnings contained in the School Improvement Fund, the amount of \$2,976,114 is transferred from the School Improvement Fund to the General Fund for general governmental purposes.

SECTION 17. Notwithstanding ORS 326.320, 327.026 and 327.485, the amount of \$1,000,000 is transferred from the Education Cash Account to the General Fund for general governmental purposes.

SECTION 18. Notwithstanding ORS 343.247, the amount of \$2,000,000 is transferred from the Special Education Account to the General Fund for general governmental purposes.

SECTION 19. The Legislative Assembly finds that:

- (1) The state is experiencing an unprecedented economic downturn;
- (2) The state has an interest in ensuring that Oregon's children are able to complete the 2008-2009 school year with minimal or no reductions in school days; and
- (3) To achieve that purpose, it is necessary to establish a School Day Restoration Fund so that the state may support activities directly related to maintaining classroom activities while allowing school districts and education service districts to determine the specific activities necessary to reduce costs and access local reserves to support Oregon's children.

SECTION 20. (1) The School Day Restoration Fund is established in the General Fund.

(2) The Department of Education shall distribute moneys in the School Day Restoration Fund as follows:

(a) 95.25 percent as grants to school districts, the Youth Corrections Education Program and the Juvenile Detention Education Program; and

(b) 4.75 percent as grants to education service districts.

SECTION 21. (1) In addition to those moneys distributed through the State School Fund, the Department of Education shall award grants from the School Day Restoration Fund established by section 20 of this 2009 Act to school districts, education service districts, the

Youth Corrections Education Program and the Juvenile Detention Education Program for the purposes of minimizing or eliminating any reductions in the number of school days and ensuring the continuation of special education programs for the remainder of the 2008-2009 school year.

(2)(a) Each school district, each education service district, the Youth Corrections Education Program and the Juvenile Detention Education Program may apply to the Department of Education for a grant under this section.

(b) The Department of Education shall work with the Legislative Fiscal Office to set grant application requirements. The requirements shall include, but are not limited to, a requirement that the school district or education service district superintendent, and president or chair of the district governing board, certify that the district has made a good faith effort to:

(A) Eliminate or minimize reductions in the number of school days;
(B) Continue special education programs;
(C) Review and possibly reduce administrative salaries;
(D) Collaborate with teachers and other employees concerning ways to maintain school days; and

(E) Utilize cash reserves to the greatest extent possible.

(3)(a) Notwithstanding ORS 338.155 (9), the Department of Education may not award a grant under this section directly to a public charter school.

(b) A school district that receives a grant under this section may transfer a portion of the grant to a public charter school based on the charter of the school or any other agreement between the school district and the public charter school.

(c) A public charter school that receives grant funds under this subsection shall use those funds for the purposes specified in subsection (1) of this section.

(4)(a) The amount of each grant for a program or school district = the program's or school district's ADMw × (the total amount available for distribution to programs and school districts as grants ÷ the total statewide ADMw of all programs and school districts).

(b) The amount of each grant for an education service district = the education service district's ADMw × (the total amount available for distribution to education service districts as grants ÷ the total statewide ADMw of all education service districts).

(c) As used in this subsection, "ADMw" means ADMw based upon the collection of 2008-2009 second quarter average daily membership as reported to the Department of Education by school districts and the most recent collections of all other components of ADMw for the 2008-2009 school year.

(5) The State Board of Education may adopt any rules necessary to implement and administer section 20 of this 2009 Act and this section.

SECTION 22. (1) Sections 19 to 21 of this 2009 Act are repealed July 1, 2009.

(2) Any moneys remaining in the School Day Restoration Fund on July 1, 2009, shall be transferred to the General Fund for general governmental purposes.

HUMAN SERVICES

SECTION 23. Notwithstanding ORS 461.549, the amount allocated from the Administrative Services Economic Development Fund to the Problem Gambling Treatment Fund under ORS 461.549, in the fiscal quarter beginning April 1, 2009, is reduced by \$1,200,000.

SECTION 24. Notwithstanding ORS 426.506 (3), the amount of \$447,430 is transferred from the Community Housing Trust Account within the Community Mental Health Housing Fund to the General Fund for general governmental purposes.

SECTION 25. Notwithstanding any other provision of law, the amount of \$1,159,143 is transferred to the General Fund for general governmental purposes from moneys in any fund

or account of the Department of Human Services that receives moneys for public health services.

SECTION 26. Notwithstanding ORS 414.815, the amount of \$1,000,000 is transferred from the Law Enforcement Medical Liability Account to the Department of Human Services Account established in ORS 409.060.

SECTION 27. Notwithstanding ORS 411.894 (4), of moneys in the Oregon JOBS Individual Education Account that are available for appropriation and transfer under ORS 411.894 (4), the amount of \$1,800,000 is transferred from the Oregon JOBS Individual Education Account to the Department of Human Services Account established in ORS 409.060.

NATURAL RESOURCES

SECTION 28. Notwithstanding ORS 459.236 and 465.381, the amount of \$4,100,000 is transferred from the Orphan Site Account established in the Hazardous Substance Remedial Action Fund to the General Fund for general governmental purposes.

SECTION 29. Notwithstanding ORS 468.065, the amount of \$400,000 collected to implement the Oregon low emissions vehicle program is transferred from the account described in ORS 468.065 (6) to the General Fund for general governmental purposes.

SECTION 30. Notwithstanding ORS 468A.400, the amount of \$2,000,000 is transferred from the Department of Environmental Quality Motor Vehicle Pollution Account to the General Fund for general governmental purposes.

SECTION 31. Notwithstanding ORS 459.775, the amount of \$18,824 is transferred from the Waste Tire Recycling Account to the General Fund for general governmental purposes.

SECTION 32. Notwithstanding ORS 466.795, the amount of \$47,854 is transferred from the Underground Storage Tank Insurance Fund to the General Fund for general governmental purposes.

SECTION 33. Notwithstanding ORS 561.144, 618.136 and 634.326, the amount of \$2,250,000 is transferred from the Department of Agriculture Service Fund to the General Fund for general governmental purposes.

SECTION 34. Notwithstanding ORS 541.750, 541.830 and 541.840, from moneys paid into the Water Development Administration and Bond Sinking Fund under ORS 541.750, the amount of \$1,600,000 is transferred from the Water Development Administration and Bond Sinking Fund to the General Fund for general governmental purposes.

SECTION 35. Notwithstanding ORS 555.380, the amount of \$426,050 is transferred from the Tumalo Project Fund to the General Fund for general governmental purposes.

SECTION 36. Notwithstanding ORS 496.303 (7), the amount of \$3,500,000 is transferred from the Fish and Wildlife Deferred Maintenance Subaccount to the General Fund for general governmental purposes.

SECTION 37. ORS 805.256 is amended to read:

805.256. (1) After deduction of the cost of administration of the salmon registration plate program, moneys from the surcharge imposed by ORS 805.255 shall be transferred and appropriated as follows:

(a) Half of the moneys shall be transferred to the Oregon Watershed Enhancement Board established under ORS 541.360 and *[shall be]* **are** continuously appropriated to the board for *[watershed enhancement projects under ORS 541.375 that are designed to restore salmonid habitats and improve the health of streams that support salmonid populations]* **activities under ORS 541.379 related to the restoration and protection of native salmonid populations, watersheds, fish and wildlife habitats and water quality, including but not limited to activities under the Oregon Plan;** and

(b) Half of the moneys shall be transferred to the State Parks and Recreation Department Fund established under ORS 390.134 and continuously appropriated for the purposes described in ORS 390.134 (4).

(2) As used in this section, “the cost of administration of the salmon registration plate program” is the sum of all Department of Transportation expenses for the issuance or transfer of salmon registration plates under ORS 805.255 that are above the normal costs of issuing, renewing and transferring registration plates in the normal course of the business of the department. These expenses include, but are not limited to, the costs of collecting the salmon registration plate surcharge and transferring salmon registration plates.

PUBLIC SAFETY

SECTION 38. Notwithstanding ORS 180.095, the amount of \$2,000,000 is transferred from the Consumer Protection and Education Revolving Account to the General Fund for general governmental purposes.

SECTION 39. Notwithstanding ORS 418.746, the amount of \$900,000 is transferred from the Child Abuse Multidisciplinary Intervention Account to the General Fund for general governmental purposes.

SECTION 40. Notwithstanding ORS 181.690, the amount of \$1,151,183 is transferred from the Police Standards and Training Account to the General Fund for general governmental purposes.

SECTION 41. Notwithstanding ORS 401.806 and 401.808, the amount of \$3,112,497 is transferred from the Enhanced 9-1-1 Subaccount to the General Fund for general governmental purposes.

SECTION 42. Notwithstanding ORS 401.806 and 401.808, the amount of \$500,000 is transferred from the Enhanced 9-1-1 Equipment Replacement Subaccount to the General Fund for general governmental purposes.

SECTION 43. Notwithstanding any other provision of law, the amount of \$640,000 is transferred from the miscellaneous receipts account established for the Judicial Department under ORS 279A.290 to the General Fund for general governmental purposes.

SECTION 44. Notwithstanding ORS 1.202 and 1.204:

(1) The amount of \$4,350,000 is transferred from the Judicial Department Collections Account to the General Fund for general governmental purposes; and

(2) The amount of \$460,000 is transferred to the General Fund for general governmental purposes from the unit within the collections and revenue management program that collects parking fines in counties with populations of more than 500,000.

SECTION 45. Notwithstanding ORS 1.178, the amount of \$1,200,000 is transferred from the State Court Facilities Security Account to the General Fund for general governmental purposes.

SECTION 46. Notwithstanding ORS 476.055, the amount of \$2,000,000 is transferred from the State Fire Marshal Fund to the General Fund for general governmental purposes.

EMPLOYMENT DEPARTMENT

SECTION 47. ORS 411.877 is amended to read:

411.877. As used in ORS [316.680,] 411.877 to 411.896 [and 657.925]:

(1) “Board” means the JOBS Plus Advisory Board established in ORS 411.886.

(2) [“Department” means the Department of Human Services.] “Food stamp plan” means the plan described in ORS 411.825.

(3) “Job opportunities and basic skills program” means the program described in ORS 412.006.

[(3)] (4) “JOBS Plus” or “program” means the JOBS Plus Program established in ORS 411.878.

SECTION 48. ORS 411.878 is amended to read:

411.878. (1) In establishing and implementing a program to be known as the JOBS Plus Program, the Legislative Assembly recognizes that early attachment to work and development of knowledge

and skills are the most effective means of helping people make the transition from dependence on public assistance and subsidizing in poverty to regular employment and self-reliance. It is the intent of the Legislative Assembly to promote greater economic self-sufficiency among Oregon families *[and workers]* by:

(a) Increasing the employability of unemployed and underemployed Oregonians through on-the-job training;

(b) Invigorating the public-private workforce partnership through development of jobs with both private for-profit and public employers;

(c) Ensuring that program participants through their employment development plans have opportunities to improve work skills, education and employability and to establish recent work histories with work site training, mentoring, individual education accounts and provision of necessary support service benefits that include child care, workers' compensation, job placement and a guarantee that participation in the JOBS Plus Program does not result in a reduction in net income to a participant when compared with the participant's combined income from the temporary assistance for needy families program[,] **and** the food stamp **plan** *[program and the unemployment insurance program]*; and

(d) Expeditiously placing program participants in subsidized and unsubsidized employment.

(2) The JOBS Plus Program is created as a program in which residents of the State of Oregon shall, in lieu of receiving food stamp benefits and payments from the temporary assistance for needy families program, be provided jobs and paid in a way that promotes self-sufficiency and encourages unemployed Oregonians to improve their positions in the workforce. *[Recipients of unemployment insurance also shall be offered employment under the program.]* The JOBS Plus Program shall be a public assistance to work strategy for the State of Oregon and operate under the job opportunities and basic skills program and rules adopted thereunder to the extent such rules are not inconsistent with ORS *[316.680,]* 411.877 to 411.896 *[and 657.925]*. These rules include but are not limited to rules regarding participation requirements[, *exemptions*] and support services.

SECTION 49. ORS 411.882 is amended to read:

411.882. In administering the JOBS Plus Program and to the extent permitted by federal law, the Department of Human Services shall maximize the use of federal grants and apportionments of the temporary assistance for needy families program, the food stamp *[program]* **plan** and employment related child care.

SECTION 50. ORS 411.886 is amended to read:

411.886. (1) The JOBS Plus Advisory Board is established. The board shall advise the Department of Human Services *[and the Employment Department]* in the direction and administration of the JOBS Plus Program established *[under ORS 316.680, 411.877 to 411.896 and 657.925]* **in ORS 411.878**. The board shall have seven members, consisting of six representatives of the business community and one employed former recipient of temporary assistance for needy families[, **or** the food stamp **plan** *[program or the unemployment insurance program]*].

(2) The Governor shall appoint new members from nominees recommended by the board.

(3) Members appointed to the board shall serve terms of three years.

SECTION 51. ORS 411.888 is amended to read:

411.888. (1) Nominations for persons to fill scheduled vacancies must be made to the Governor not less than 30 days prior to the effective date of the vacancy. Nominations for persons to fill an unscheduled vacancy shall be made to the Governor not more than 30 days after the position becomes vacant.

(2) The JOBS Plus Advisory Board shall select one of its members to serve as a chairperson for such terms and with duties and powers necessary for the performance of the functions of such office as the board determines. A majority of the members of the board constitutes a quorum for the transaction of business.

(3) The board shall meet at least once each quarter with the Director of Human Services *[and the Director of the Employment Department]*.

(4) The board shall report at least annually to the Governor and the Legislative Assembly on the status and progress of the JOBS Plus Program. The chairperson of the board shall have the additional duty to work with and coordinate the local councils created in ORS 411.890.

SECTION 52. ORS 411.889 is amended to read:

411.889. The [*Employment Department and the*] Department of Human Services shall explore contracting for job procurement and placement services with private job placement institutions. If contracting is deemed beneficial, [*the Employment Department and*] the Department of Human Services [*are*] is encouraged to and shall have the authority to contract with private placement firms.

SECTION 53. ORS 411.890 is amended to read:

411.890. A JOBS Plus Implementation Council shall be established in service areas to be determined by the Director of Human Services to assist the JOBS Plus Advisory Board[,] **and** the Department of Human Services [*and the Employment Department*] in the administration of the JOBS Plus Program and to allow local flexibility in dealing with the particular needs of each county. Each council shall be primarily responsible for recruiting and encouraging participation of employment providers in the county. Each council shall be composed of seven members who shall be appointed by the county commissioners in each county in the district. Council members shall be residents of the district in which they are appointed and shall serve four-year terms. Six members of the council shall be from the local business community. At least one member shall be a current or former recipient of the temporary assistance for needy families program[,] **or** the food stamp **plan** [*program or the unemployment insurance program*].

SECTION 54. ORS 411.892 is amended to read:

411.892. (1)(a) All employers, including public and private sector employers within the State of Oregon, are eligible to participate in the JOBS Plus Program. The Department of Human Services [*or Employment Department, as appropriate,*] shall adopt by rule a method to disqualify employers from participating in the program. No employer is required to participate in the JOBS Plus Program. In the event that there are unassigned participants whom no employer desires to utilize, the participants may be assigned to work for a public agency.

(b) The maximum number of program participants that any employer is authorized to receive at any one time may not exceed 10 percent of the total number of the employer's employees. However, each employer may receive one participant. The Director of Human Services [*or Director of the Employment Department, as appropriate,*] may waive the limit in special circumstances.

(c) The Department of Human Services [*or Employment Department, as appropriate,*] by rule shall establish criteria for excluding employers from participation for failure to abide by program requirements, showing a pattern of terminating participants prior to the completion of training or other demonstrated unwillingness to comply with the stated intent of the program.

(2) The Department of Human Services [*or Employment Department, as appropriate,*] shall ensure that jobs made available to program participants:

(a) Do not require work in excess of 40 hours per week;

[(b) *Are in conformity with section 3304(a)(5) of the Federal Unemployment Tax Act;*]

[(c)] (b) Are not used to displace regular employees or to fill unfilled positions previously established; and

[(d)] (c) Do not pay a wage that is substantially less than the wage paid for similar jobs in the local economy with appropriate adjustments for experience and training.

(3)(a) Eligibility for the program shall be limited to residents who are:

(A) Adults and caretaker relatives who are receiving temporary assistance for needy families benefits;

(B) Adult food stamp [*program*] recipients except as described in subsection (5)(b) of this section;

and

[(C) *Unemployment compensation recipients; and*]

[(D)] (C) Unemployed noncaretaker parents of children who are receiving temporary assistance for needy families benefits.

(b) In addition to those residents eligible for the program under paragraph (a) of this subsection, additional residents who are seeking employment may be eligible for the program if there are legislatively allocated funds available [*from the savings attributable to the program in the Unemployment Compensation Trust Fund or*] in the temporary assistance for needy families budget of the Department of Human Services.

(4)(a) Individuals desiring work through the program shall contact the nearest Department of Human Services office serving the county in which they reside if they are temporary assistance for needy families program or food stamp [*program*] **plan** applicants or recipients or noncustodial parents of individuals receiving temporary assistance for needy families. [*Unemployment insurance applicants or recipients or others seeking employment may gain access to the program through their local Employment Department office.*]

(b) With the assistance of the local JOBS Plus Implementation Councils and the JOBS Plus Advisory Board, the Department of Human Services shall develop a job inventory of sufficient size to accommodate all of the participants who desire to work in the program. In consultation with the participant, the department shall try to match the profile of each participant with the needs of an employer when assigning a participant to work with the employer.

(c) Either the employer or the participant may terminate the assignment by contacting the appropriate Department of Human Services [*or Employment Department*] office. In such event, the Department of Human Services [*or Employment Department*] shall reassess the needs of the participant and assign the participant to another JOBS Plus Program placement or another job opportunity and basic skills program component and, at the employer's request, provide the employer with another participant.

(d)(A) [*Subject to ORS 657.925 (6)(d),*] If after four months in a placement, a participant has not been hired for an unsubsidized position, the employer shall allow the worker to undertake eight hours of job search per week. Participating employers shall consider such time as hours worked for the purposes of paying wages.

(B) [*Subject to ORS 657.925 (6)(d),*] If after six months in a placement, a participant has not been hired for an unsubsidized position, the placement shall be terminated, and the caseworker shall reassess the participant's employment development plan.

(e) The Department of Human Services may pay placement and barrier removal payments to temporary assistance for needy families **program** and food stamp [*program*] **plan** participants as necessary to enable participation in the JOBS Plus Program.

(f) The Department of Human Services shall accept eligible volunteers into the program prior to mandating program participation by eligible persons.

(5)(a) Assignment of participants to available jobs shall be based on a preference schedule developed by the Department of Human Services [*and the Employment Department*]. Any temporary assistance for needy families recipient or food stamp recipient may volunteer for the program.

(b) The following individuals may not be required to participate in the program:

(A) **Recipients under the** temporary assistance for needy families **program** and **the** food stamp **plan** [*recipients*] who are eligible for Supplemental Security Income benefits or other ongoing state or federal maintenance benefits based on age or disability.

(B) Food stamp applicants or recipients who are employed full-time or are college students eligible for food stamps and enrolled full-time in a community college or an institution of higher education, or enrolled half-time in a community college or an institution of higher education and working at least 20 hours per week.

(C) Teenage parents who remain in high school if progressing toward a diploma. Teenage parents not in school are eligible for the JOBS Plus Program.

(c) The Department of Human Services shall provide life skills classes and opportunities to achieve General Educational Development (GED) certificates to appropriate participants in conjunction with working in the JOBS Plus Program.

(d) **Subject to subsection (7) of this section,** temporary assistance for needy families and food stamp benefits shall be suspended at the end of the calendar month in which an employer makes the

first wage payment to a participant who is a custodial parent in a family that receives temporary assistance for needy families or to any adult member of a household receiving food stamp benefits. Failure of the participant to cooperate with the requirements of the JOBS Plus Program may result in the participant's removal, in accordance with rules adopted by the Department of Human Services, from the JOBS Plus Program and suspension of the participant's temporary assistance for needy families grant and food stamp benefits. A temporary assistance for needy families and food stamp benefits recipient who has been removed from the program for failing to cooperate shall be eligible to reapply to participate in the program and shall have eligibility for program services determined without regard to the length of time the person was not participating following removal.

(6)(a) Employers shall pay all participating individuals at least the hourly rate of the Oregon minimum wage.

(b) Sick leave, holiday and vacation absences shall conform to the individual employer's rules for temporary employees.

(c) Group health insurance benefits shall be provided by the employer to program participants if, and to the extent that, state or federal law requires the employer to provide such benefits.

(d) All persons participating in the JOBS Plus Program shall be considered to be temporary employees of the individual employer providing the work and shall be entitled only to benefits required by state or federal law.

(e) Employers shall provide workers' compensation coverage for each JOBS Plus Program participant.

(7) In the event that the net monthly full-time wage paid to a participant would be less than the level of income from the temporary assistance for needy families program and the food stamp benefit amount equivalent that the participant would otherwise receive, the Department of Human Services shall determine and pay a supplemental payment as necessary to provide the participant with that level of net income. The department shall determine and pay in advance supplemental payments to participants on a monthly basis as necessary to ensure equivalent net program wages. Participants shall be compensated only for time worked.

(8) In addition to and not in lieu of the payments provided for under subsections (6) and (7) of this section, participants shall be entitled to retain the full child support payments collected by the Department of Justice.

(9) Program participants who are eligible for federally and state funded medical assistance at the time they enter the program shall remain eligible as long as they continue to participate in the program. In conformity with existing state day care program regulations, child day care shall be provided for all program participants who require it.

(10) JOBS Plus Program employers shall:

(a) Endeavor to make JOBS Plus Program placements positive learning and training experiences;

(b) Maintain health, safety and working conditions at or above levels generally acceptable in the industry and no less than that of comparable jobs of the employer;

(c) Provide on-the-job training to the degree necessary for the participants to perform their duties;

(d) Recruit volunteer mentors from among their regular employees to assist the participants in becoming oriented to work and the workplace; and

(e) Sign an agreement to abide by all requirements of the program, including the requirement that the program not supplant existing jobs. All agreements shall include provisions noting the employer's responsibility to repay reimbursements in the event the employer violates program rules. When a professional placement service, professional employment organization or temporary employment agency is acting as an employer pursuant to subsection [(14)] (13) of this section, agreements under this paragraph shall require a three-party agreement between the professional placement service, professional employment organization or temporary employment agency, the organization where the participant has been placed to perform services and the State of Oregon. The three-party agreement shall include provisions requiring that all JOBS Plus reimbursements received by the

professional placement service, professional employment organization or temporary employment agency be credited to the organization where the participant has been placed to perform services.

(11) Program participant wages shall be subject to federal and state income taxes, Social Security taxes and unemployment insurance tax or reimbursement as applicable under ORS chapter 657, which shall be withheld and paid in accordance with state and federal law. Supplemental payments made pursuant to subsection (7) of this section shall not be subject to state income taxes under ORS chapter 316 and, to the extent allowed by federal law, shall not be subject to federal income taxes and Social Security taxes.

(12)(a)(A) The Department of Human Services shall reimburse employers for the employers' share of Social Security, unemployment insurance and workers' compensation premiums paid on behalf of program participants, *other than those who are unemployment insurance claimants,* referred to the employer by the Department of Human Services, as well as the minimum wage earnings paid by the employer to program participants referred to the employer by the Department of Human Services.

[(B) The Employment Department shall reimburse employers \$5 per hour paid by the employer as earnings to JOBS Plus Program participants, who are unemployment insurance claimants and are referred to the employer by the Employment Department.]

(b) If the Department of Human Services *[or Employment Department]* finds that an employer has violated any of the rules of the JOBS Plus Program, the *[appropriate]* department:

(A) Shall withhold any amounts due to employers under paragraph (a) of this subsection.

(B) May seek repayment of any amounts paid to employers under paragraph (a) of this subsection.

[(13) Subject to ORS 657.925 (6)(d), for unemployment insurance claimants participating in the JOBS Plus Program:]

[(a) If after nine weeks in a placement, a participant has not been hired for an unsubsidized position, the employer shall allow the worker to undertake up to five hours of job search per week. Participating employers shall consider this time as hours worked for the purposes of paying wages.]

[(b) If after 13 weeks in a placement, a participant has not been hired for an unsubsidized position, the employer shall terminate the placement and the Employment Department shall assess the participant's employment development plan.]

[(14)] (13) For purposes of this section, "employer" shall include professional placement services, professional employment organizations and temporary employment agencies.

SECTION 55. ORS 657.190 is amended to read:

657.190. *[(1)]* In determining whether any work is suitable for an individual, the Director of the Employment Department shall consider, among other factors, the degree of risk involved to the health, safety and morals of the individual, the physical fitness and prior training, experience and prior earnings of the individual, the length of unemployment and prospects for securing local work in the customary occupation of the individual and the distance of the available work from the residence of the individual.

[(2) Notwithstanding subsection (1) of this section, the director may refer claimants to JOBS Plus Program jobs for which the claimant does not have adequate skills or experience when the JOBS Plus Program job is likely to result in an upgrade in the claimant's skills and experience.]

SECTION 56. ORS 411.884 and 657.925 are repealed.

MISCELLANEOUS

SECTION 57. The transfers and allocations described in this 2009 Act shall be made on or before June 30, 2009.

SECTION 58. The unit captions used in this 2009 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2009 Act.

SECTION 59. This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect on its passage.

Passed by Senate March 3, 2009

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Secretary of Senate

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President of Senate

Passed by House March 5, 2009

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Speaker of House

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

.....
Governor

Filed in Office of Secretary of State:

.....M,....., 2009

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Secretary of State