

Enrolled
Senate Bill 1579

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Joint Interim Committee on Ways and Means)

CHAPTER

AN ACT

Relating to state financial administration; creating new provisions; amending ORS 1.177, 1.178, 45.275, 45.285, 135.050, 151.216, 151.225, 151.487, 171.585, 182.460, 184.360, 199.432, 276.390, 278.125, 284.118, 284.375, 286A.160, 291.100, 291.217, 291.342, 291.349, 291.371, 291.373, 291.375, 293.190, 314.840, 353.100, 377.836, 390.124, 390.134, 396.515, 401.536, 411.072, 412.079, 413.072, 419A.170, 419A.211, 419B.198, 419C.203, 419C.535, 421.352, 454.439, 461.120, 468.220, 576.306, 656.612, 656.753, 731.272, 741.002, 741.027, 741.101, 741.105, 741.201, 741.220, 741.222, 741.250, 741.310, 757.552, 757.822 and 774.190 and section 19, chapter 846, Oregon Laws 2007, section 19, chapter 827, Oregon Laws 2009, section 3, chapter 21, Oregon Laws 2011, section 4, chapter 220, Oregon Laws 2011, section 3, chapter 302, Oregon Laws 2011, section 61a, chapter 597, Oregon Laws 2011, section 1, chapter 604, Oregon Laws 2011, section 83, chapter 630, Oregon Laws 2011, and section 2, chapter ___, Oregon Laws 2012 (Enrolled House Bill 4082); repealing ORS 291.385 and 391.100 and section 28, chapter 630, Oregon Laws 2011; and declaring an emergency.

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

ALLOTMENTS

SECTION 1. Section 28, chapter 630, Oregon Laws 2011, is repealed.

BONDING

SECTION 2. Section 3 of this 2012 Act is added to and made a part of ORS chapter 286A.

SECTION 3. (1) If the State Treasurer or Director of the Oregon Department of Administrative Services determines that the treasurer or director will cancel or postpone an issuance of general obligation bonds or lottery bonds that was authorized by law and previously scheduled, the treasurer or director shall provide written notice to the President of the Senate, the Speaker of the House of Representatives and the Legislative Fiscal Officer.

(2) The treasurer or director shall provide the notice not later than 30 days after the date the issuance of the bonds was scheduled.

REPORTS TO JOINT COMMITTEE ON WAYS AND MEANS

SECTION 4. Section 4, chapter 220, Oregon Laws 2011, is amended to read:

Sec. 4. (1) [Sections 1 and 2 of this 2011 Act] **ORS 431.862 and 431.864** become operative [when the Oregon Health Authority receives funding described in section 3 of this 2011 Act] **on the date that the Office of the Legislative Counsel receives written notice from the Oregon Health Authority indicating that the authority has received an amount of moneys under ORS 431.866** that is sufficient to carry out the provisions of [section 1 of this 2011 Act] **ORS 431.862.**

(2) The authority may take [any action] **the actions described in ORS 431.866** before the operative date specified in subsection (1) of this section to obtain the [funding] **moneys** necessary to carry out the provisions of [section 1 of this 2011 Act] **ORS 431.862.**

(3) Until the operative date specified in subsection (1) of this section, the authority shall report on [the status of funding requests made under this section at each meeting of the interim] **the actions taken by the authority pursuant to ORS 431.866 to the Joint Committee on Ways and Means [or to each meeting of the Human Services Subcommittee of the interim Joint Committee on Ways and Means] at least once during an odd-numbered year regular session of the Legislative Assembly.**

REPORTS TO JOINT INTERIM COMMITTEE ON WAYS AND MEANS

SECTION 5. ORS 171.585 is amended to read:

171.585. The Joint Legislative Audit Committee shall:

(1) Review all audits and make recommendations for change or remediation by the agency or other organization under review to the Emergency Board **or to the Joint Interim Committee on Ways and Means**, the Joint **Committee on Ways and Means [Committee]** and other persons receiving the audit report under ORS 192.245.

(2) Accept requests for performance and program audits from individual legislators, legislative committees, the Division of Audits, the Budget and Management Division and the Legislative Fiscal Office.

(3) In conjunction with the Director of the Division of Audits, set priorities on the basis of risk assessment for performance and program audits and program evaluations.

(4) With the advice and assistance of the Legislative Fiscal Officer, the Administrator of the Budget and Management Division and the Director of the Division of Audits, determine the type of audit, evaluation or review utilizing criteria to include but not be limited to the nature and scope of the task, the time frame involved, necessary professional guidelines, economy, efficiency, cost and cost responsibility.

(5) Not later than 12 months after the issuance of an audit report, review the actions of an agency or other government organization for compliance with the recommendations of the audit report.

(6) Assign tasks to the Legislative Fiscal Office, the Budget and Management Division, the Division of Audits or a special task force.

(7) Review state agency performance measures and make recommendations for change.

SECTION 6. ORS 184.360 is amended to read:

184.360. (1) As used in this section:

(a) "Executive department" has the meaning given that term in ORS 174.112.

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

(2) It is the policy of this state that internal audit activities within state government be coordinated to promote effectiveness.

(3) The Oregon Department of Administrative Services shall adopt rules setting standards and policies for internal audit functions within state government. The rules shall include, but are not limited to:

(a) Standards for internal audits that are consistent with and incorporate commonly recognized industry standards and practices; and

(b) Policies and procedures that ensure the integrity of the internal audit process.

(4) Each agency of the executive department required to have an internal audit function shall produce a risk assessment of the entire agency that conforms to audit standards established by nationally recognized entities such as the United States Government Accountability Office or the Institute of Internal Auditors. The agency shall use its risk assessment as the basis for the selection and performance of at least one internal audit per calendar year.

(5) Each agency of the executive department required to have an internal audit function shall audit a component of its governance and risk management processes at least once every five years and file a report with the Oregon Department of Administrative Services.

(6) Not later than December 31 of each calendar year, the Oregon Department of Administrative Services shall prepare *[and submit]* a report **describing internal audit activities that have occurred in state government during the calendar year in which the report is prepared. The department shall submit the report** to the Joint Legislative Audit Committee. In the absence of the Joint Legislative Audit Committee, the department shall submit the report to the Joint Committee on Ways and Means, **the Joint Interim Committee on Ways and Means**, *[or]* the Emergency Board **or another committee of the Legislative Assembly designated by the President of the Senate and the Speaker of the House of Representatives to receive the report.** *[The report shall describe internal audit activities that have occurred in state government during the calendar year in which the report is prepared.]*

SECTION 7. ORS 276.390 is amended to read:

276.390. (1) Not later than June 30 of each even-numbered year, the Oregon Department of Administrative Services shall submit to the Emergency Board **or to the Joint Interim Committee on Ways and Means** a schedule of rentals proposed for the biennium beginning on July 1 of the next calendar year. *[Any changes in an existing schedule of rentals, or rentals for new buildings or facilities, are subject to approval by the Emergency Board.]* The Emergency Board **or the Joint Interim Committee on Ways and Means** shall recommend to the next odd-numbered year regular session of the Legislative Assembly that it appropriate for each agency occupying space in such a building or facility an amount sufficient to pay rentals required under the schedule *[as approved by the Emergency Board]*.

(2) The Emergency Board *[shall adopt]* **or the Joint Interim Committee on Ways and Means shall recommend to the next odd-numbered year regular session of the Legislative Assembly** a schedule of rentals for each biennium with respect to the State Capitol and the Supreme Court Building.

SECTION 8. ORS 291.217 is amended to read:

291.217. (1) As used in this section:

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

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

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

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

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

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

(2) As part of the tentative budget plan and the budget report required under ORS 291.210 and 291.216, the Oregon Department of Administrative Services and the Governor shall submit an outcomes-based budget. The outcomes-based budget shall be based on the results of state agency continuous improvement actions, performance management and performance measurement, shall describe and measure state agency efforts to implement process improvements and shall reflect state agency efforts to achieve, through process improvements, quality service delivery at a lower cost.

(3) The budget for each state agency shall:

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

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

(4) The Joint Committee on Ways and Means, the Emergency Board, **the Joint Interim Committee on Ways and Means** and the Legislative Fiscal Office may review performance management and performance measurement processes for services provided by contract by state agencies or by school districts.

SECTION 9. ORS 291.373 is amended to read:

291.373. (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[,] or 291.375 [*and 291.385*] to report or present to the Emergency Board, **to the Joint Interim Committee on Ways and Means** or to the Joint Committee on Ways and Means.

SECTION 10. ORS 291.375 is amended to read:

291.375. (1) Prior to the submission of any application for financial assistance or grants from the United States or any agency [*thereof*] **of the United States** by or on behalf of any agency of this state, the application must be submitted for legislative review in the following manner:

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

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

(2) If the legislative agency authorized under subsection (1) of this section to review applications described therein approves the application, it may be submitted to the appropriate federal agency.

If the legislative agency disapproves of the application, it [*shall*] **may** not be submitted to any federal agency unless it is or can be modified to meet the objections of the legislative agency.

(3) Notwithstanding subsection (1) of this section, the Joint Committee on Ways and Means, [*and*] the Emergency Board **or the Joint Interim Committee on Ways and Means** may exempt any state agency from the requirements of this section. Project grants for departmental research, organized activities related to instruction, sponsored research or other sponsored programs carried on within the Oregon University System, 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.

SECTION 11. ORS 314.840 is amended to read:

314.840. (1) The Department of Revenue may:

(a) Furnish any taxpayer, representative authorized to represent the taxpayer under ORS 305.230 or person designated by the taxpayer under ORS 305.193, upon request of the taxpayer, representative or designee, with a copy of the taxpayer's income tax return filed with the department for any year, or with a copy of any report filed by the taxpayer in connection with the return, or with any other information the department considers necessary.

(b) Publish lists of taxpayers who are entitled to unclaimed tax refunds.

(c) Publish statistics so classified as to prevent the identification of income or any particulars contained in any report or return.

(d) Disclose a taxpayer's name, address, telephone number, refund amount, amount due, Social Security number, employer identification number or other taxpayer identification number to the extent necessary in connection with collection activities or the processing and mailing of correspondence or of forms for any report, return or claim required in the administration of ORS 310.630 to 310.706, any local tax under ORS 305.620, or any law imposing a tax upon or measured by net income.

(2) The department also may disclose and give access to information described in ORS 314.835 to:

(a) The Governor of the State of Oregon or the authorized representative of the Governor:

(A) With respect to an individual who is designated as being under consideration for appointment or reappointment to an office or for employment in the office of the Governor. The information disclosed shall be confined to whether the individual:

(i) Has filed returns with respect to the taxes imposed by ORS chapter 316 for those of not more than the three immediately preceding years for which the individual was required to file an Oregon individual income tax return.

(ii) Has failed to pay any tax within 30 days from the date of mailing of a deficiency notice or otherwise respond to a deficiency notice within 30 days of its mailing.

(iii) Has been assessed any penalty under the Oregon personal income tax laws and the nature of the penalty.

(iv) Has been or is under investigation for possible criminal offenses under the Oregon personal income tax laws. Information disclosed pursuant to this paragraph shall be used only for the purpose of making the appointment, reappointment or decision to employ or not to employ the individual in the office of the Governor.

(B) For use by an officer or employee of the Oregon Department of Administrative Services duly authorized or employed to prepare revenue estimates, or a person contracting with the Oregon Department of Administrative Services to prepare revenue estimates, in the preparation of revenue estimates required for the Governor's budget under ORS 291.201 to 291.226, or required for submission to the Emergency Board **or the Joint Interim Committee on Ways and Means**, or if the Legislative Assembly is in session, to the Joint Committee on Ways and Means, and to the Legislative Revenue Officer **or Legislative Fiscal Officer** under ORS 291.342, 291.348 and 291.445. The Department of Revenue shall disclose and give access to the information described in ORS 314.835 for the purposes of this subparagraph only if:

(i) The request for information is made in writing, specifies the purposes for which the request is made and is signed by an authorized representative of the Oregon Department of Administrative Services. The form for request for information shall be prescribed by the Oregon Department of Administrative Services and approved by the Director of the Department of Revenue.

(ii) The officer, employee or person receiving the information does not remove from the premises of the Department of Revenue any materials that would reveal the identity of a personal or corporate taxpayer.

(b) The Commissioner of Internal Revenue or authorized representative, for tax administration and compliance purposes only.

(c) For tax administration and compliance purposes, the proper officer or authorized representative of any of the following entities that has or is governed by a provision of law that meets the requirements of any applicable provision of the Internal Revenue Code as to confidentiality:

(A) A state;

(B) A city, county or other political subdivision of a state;

(C) The District of Columbia; or

(D) An association established exclusively to provide services to federal, state or local taxing authorities.

(d) The Multistate Tax Commission or its authorized representatives, for tax administration and compliance purposes only. The Multistate Tax Commission may make the information available to the Commissioner of Internal Revenue or the proper officer or authorized representative of any governmental entity described in and meeting the qualifications of paragraph (c) of this subsection.

(e) The Attorney General, assistants and employees in the Department of Justice, or other legal representative of the State of Oregon, to the extent the department deems disclosure or access necessary for the performance of the duties of advising or representing the department pursuant to ORS 180.010 to 180.240 and the tax laws of this state.

(f) Employees of the State of Oregon, other than of the Department of Revenue or Department of Justice, to the extent the department deems disclosure or access necessary for such employees to perform their duties under contracts or agreements between the department and any other department, agency or subdivision of the State of Oregon, in the department's administration of the tax laws.

(g) Other persons, partnerships, corporations and other legal entities, and their employees, to the extent the department deems disclosure or access necessary for the performance of such others' duties under contracts or agreements between the department and such legal entities, in the department's administration of the tax laws.

(h) The Legislative Revenue Officer or authorized representatives upon compliance with ORS 173.850. Such officer or representative shall not remove from the premises of the department any materials that would reveal the identity of any taxpayer or any other person.

(i) The Department of Consumer and Business Services, to the extent the department requires such information to determine whether it is appropriate to adjust those workers' compensation benefits the amount of which is based pursuant to ORS chapter 656 on the amount of wages or earned income received by an individual.

(j) Any agency of the State of Oregon, or any person, or any officer or employee of such agency or person to whom disclosure or access is given by state law and not otherwise referred to in this section, including but not limited to the Secretary of State as Auditor of Public Accounts under section 2, Article VI of the Oregon Constitution; the Department of Human Services pursuant to ORS 314.860 and 412.094; the Division of Child Support of the Department of Justice and district attorney regarding cases for which they are providing support enforcement services under ORS 25.080; the State Board of Tax Practitioners, pursuant to ORS 673.710; and the Oregon Board of Accountancy, pursuant to ORS 673.415.

(k) The Director of the Department of Consumer and Business Services to determine that a person complies with ORS chapter 656 and the Director of the Employment Department to determine that a person complies with ORS chapter 657, the following employer information:

- (A) Identification numbers.
- (B) Names and addresses.
- (C) Inception date as employer.
- (D) Nature of business.
- (E) Entity changes.
- (F) Date of last payroll.

(L) The Director of Human Services to determine that a person has the ability to pay for care that includes services provided by the Eastern Oregon Training Center or the Department of Human Services to collect any unpaid cost of care as provided by ORS chapter 179.

(m) The Director of the Oregon Health Authority to determine that a person has the ability to pay for care that includes services provided by the Blue Mountain Recovery Center or the Oregon State Hospital or the Oregon Health Authority to collect any unpaid cost of care as provided by ORS chapter 179.

(n) Employees of the Employment Department to the extent the Department of Revenue deems disclosure or access to information on a combined tax report filed under ORS 316.168 is necessary to performance of their duties in administering the tax imposed by ORS chapter 657.

(o) The State Fire Marshal to assist the State Fire Marshal in carrying out duties, functions and powers under ORS 453.307 to 453.414, the employer or agent name, address, telephone number and standard industrial classification, if available.

(p) Employees of the Department of State Lands for the purposes of identifying, locating and publishing lists of taxpayers entitled to unclaimed refunds as required by the provisions of chapter 694, Oregon Laws 1993. The information shall be limited to the taxpayer's name, address and the refund amount.

(q) In addition to the disclosure allowed under ORS 305.225, state or local law enforcement agencies to assist in the investigation or prosecution of the following criminal activities:

(A) Mail theft of a check, in which case the information that may be disclosed shall be limited to the stolen document, the name, address and taxpayer identification number of the payee, the amount of the check and the date printed on the check.

(B) The counterfeiting, forging or altering of a check submitted by a taxpayer to the Department of Revenue or issued by the Department of Revenue to a taxpayer, in which case the information that may be disclosed shall be limited to the counterfeit, forged or altered document, the name, address and taxpayer identification number of the payee, the amount of the check, the date printed on the check and the altered name and address.

(r) The United States Postal Inspection Service or a federal law enforcement agency, including but not limited to the United States Department of Justice, to assist in the investigation of the following criminal activities:

(A) Mail theft of a check, in which case the information that may be disclosed shall be limited to the stolen document, the name, address and taxpayer identification number of the payee, the amount of the check and the date printed on the check.

(B) The counterfeiting, forging or altering of a check submitted by a taxpayer to the Department of Revenue or issued by the Department of Revenue to a taxpayer, in which case the information that may be disclosed shall be limited to the counterfeit, forged or altered document, the name, address and taxpayer identification number of the payee, the amount of the check, the date printed on the check and the altered name and address.

(s) The United States Financial Management Service, for purposes of facilitating the offsets described in ORS 305.612.

(t) A municipal corporation of this state for purposes of assisting the municipal corporation in the administration of a tax of the municipal corporation that is imposed on or measured by income, wages or net earnings from self-employment. Any disclosure under this paragraph may be made only pursuant to a written agreement between the Department of Revenue and the municipal corporation that ensures the confidentiality of the information disclosed.

(u) A consumer reporting agency, to the extent necessary to carry out the purposes of ORS 314.843.

(v) The Public Employees Retirement Board, to the extent necessary to carry out the purposes of ORS 238.372 to 238.384, and to any public employer, to the extent necessary to carry out the purposes of ORS 237.637 (2).

(3)(a) Each officer or employee of the department and each person described or referred to in subsection (2)(a), (e) to (k) or (n) to (q) of this section to whom disclosure or access to the tax information is given under subsection (2) of this section or any other provision of state law, prior to beginning employment or the performance of duties involving such disclosure or access, shall be advised in writing of the provisions of ORS 314.835 and 314.991, relating to penalties for the violation of ORS 314.835, and shall as a condition of employment or performance of duties execute a certificate for the department, in a form prescribed by the department, stating in substance that the person has read these provisions of law, that the person has had them explained and that the person is aware of the penalties for the violation of ORS 314.835.

(b) The disclosure authorized in subsection (2)(r) of this section shall be made only after a written agreement has been entered into between the Department of Revenue and the person described in subsection (2)(r) of this section to whom disclosure or access to the tax information is given, providing that:

(A) Any information described in ORS 314.835 that is received by the person pursuant to subsection (2)(r) of this section is confidential information that may not be disclosed, except to the extent necessary to investigate or prosecute the criminal activities described in subsection (2)(r) of this section;

(B) The information shall be protected as confidential under applicable federal and state laws; and

(C) The United States Postal Inspection Service or the federal law enforcement agency shall give notice to the Department of Revenue of any request received under the federal Freedom of Information Act, 5 U.S.C. 552, or other federal law relating to the disclosure of information.

(4) The Department of Revenue may recover the costs of furnishing the information described in subsection (2)(k) to (m) and (o) to (q) of this section from the respective agencies.

SECTION 12. ORS 396.515 is amended to read:

396.515. (1) Subject to the restriction contained in subsection (4) of this section, the Oregon Military Department may sell, exchange or lease any military department real property that is found to have become unsuitable for military department purposes. The Adjutant General shall make a determination of the unsuitability of the property for military department purposes and the advisability or necessity of sale, exchange or lease of the property.

(2) Title to any real property sold or exchanged shall be given in the name of the State of Oregon, and the deed conveying the title shall be signed by the Adjutant General. Title to real property received in exchange of military department real property shall be taken in the name of the State of Oregon, and the control of the property shall be vested in the military department.

(3) Military department real property owned jointly by the State of Oregon and the United States, or military department real property subject to federal restrictions in conflict with ORS 396.505 to 396.545, shall, with appropriate federal authorization, be subject to the provisions of ORS 396.505 to 396.545.

(4) Prior to the sale of military department real property, the military department shall submit to the Legislative Assembly, or to the Emergency Board **or the Joint Interim Committee on Ways and Means** when the legislature is not in session, the proposed sale of military department real property, for approval.

SECTION 13. ORS 411.072 is amended to read:

411.072. (1) As used in this section “policy change” includes any change in the operation of public assistance programs that affects recipients adversely in any substantial manner, including but not limited to the denial, reduction, modification or delay of benefits. “Policy change” does not in-

clude any procedural change that affects internal management but does not adversely and substantially affect the interest of public assistance recipients.

(2) The Department of Human Services may submit applications for waiver of federal statutory or regulatory requirements to the federal government or any agency thereof. Prior to the submission of any application for waiver that involves a policy change, and prior to implementation, the department shall do the following:

(a) Conduct a public process regarding the waiver application or application for waiver renewals;

(b) Prepare a complete summary of the testimony and written comments received during the public process;

(c) Submit the application for waiver or application for waiver renewals involving a policy change to the legislative review agency, as described in ORS 291.375, and present the summary of testimony and comments described in this section; and

(d) Give notice of the date of its appearance before the Emergency Board, **the Joint Interim Committee on Ways and Means** or the Joint Committee on Ways and Means in accordance with ORS 183.335, and before the Family Services Review Commission.

SECTION 14. ORS 413.072 is amended to read:

413.072. (1) As used in this section, “policy change” includes any change in the operation of medical assistance programs that affects recipients adversely in any substantial manner, including but not limited to the denial, reduction, modification or delay of benefits. “Policy change” does not include any procedural change that affects internal management but does not adversely and substantially affect the interest of medical assistance recipients.

(2) The Oregon Health Authority may submit applications for waiver of federal statutory or regulatory requirements to the federal government or any agency of the federal government. Prior to the submission of any application for waiver that involves a policy change, and prior to implementation, the authority shall do the following:

(a) Conduct a public process regarding the application for waiver or application for waiver renewals;

(b) Prepare a complete summary of the testimony and written comments received during the public process;

(c) Submit the application for waiver or application for waiver renewals involving a policy change to the legislative review agency, as described in ORS 291.375, and present the summary of testimony and comments described in this section; and

(d) Give notice of the date of the authority’s appearance before the Emergency Board, **the Joint Interim Committee on Ways and Means** or the Joint Committee on Ways and Means in accordance with ORS 183.335, and before the Medicaid Advisory Committee.

SECTION 15. ORS 454.439 is amended to read:

454.439. (1) The Department of Environmental Quality shall use the moneys in the Assessment Deferral Loan Program Revolving Fund to provide funds for assessment deferral loan programs administered by public agencies that meet all of the following conditions:

(a) The program demonstrates that assessments or charges in lieu of assessments levied against benefited properties for construction of treatment works required by a federal grant agreement or by an order issued by a state commission or agency will subject property owners to extreme financial hardship.

(b) The governing body has adopted a program and the department has approved the program.

(c) The treatment works meets the requirements of section 2, Article XI-H of the Oregon Constitution concerning eligibility of pollution control bond funds.

(2) The department also may use the moneys in the Assessment Deferral Loan Program Revolving Fund to pay the expenses of the department in administering the Assessment Deferral Loan Program Revolving Fund and to repay capitalization loans.

(3) In administering the Assessment Deferral Loan Program Revolving Fund, the department shall:

(a) Allocate funds to public agencies for assessment deferral loan programs in accordance with a priority list adopted by the Environmental Quality Commission.

(b) Use accounting, audit and fiscal procedures that conform to generally accepted government accounting standards.

(c) Prepare any reports required by the federal government as a condition to the award of federal capitalization grants.

(4) The Department of Environmental Quality shall submit an informational report to the Joint Committee on Ways and Means or, if during the interim between sessions of the Legislative Assembly, to the Emergency Board **or to the Joint Interim Committee on Ways and Means** before awarding the first loan from the Assessment Deferral Loan Program Revolving Fund. The report shall describe the assessment deferral loan program and set forth in detail the operating procedures of the program.

SECTION 16. ORS 468.220 is amended to read:

468.220. (1) The Department of Environmental Quality [*shall be*] **is** the agency for the State of Oregon for the administration of the Pollution Control Fund. The department is [*hereby*] authorized to use the Pollution Control Fund for one or more of the following purposes:

(a) To grant funds not to exceed 30 percent of total project costs for eligible projects as defined in ORS 454.505 or sewerage systems as defined in ORS 468B.005.

(b) To acquire, by purchase, or otherwise, general obligation bonds or other obligations of any municipal corporation, city, county, or agency of the State of Oregon, or combinations thereof, issued or made for the purpose of paragraph (a) of this subsection in an amount not to exceed 100 percent of the total project costs for eligible projects.

(c) To acquire, by purchase, or otherwise, other obligations of any city that are authorized by its charter in an amount not to exceed 100 percent of the total project costs for eligible projects.

(d) To grant funds not to exceed 30 percent of the total project costs for facilities for the disposal of solid waste, including without being limited to, transfer and resource recovery facilities.

(e) To make loans or grants to any municipal corporation, city, county, or agency of the State of Oregon, or combinations thereof, for planning of eligible projects as defined in ORS 454.505, sewerage systems as defined by ORS 468B.005 or facilities for the disposal of solid waste, including without being limited to, transfer and resource recovery facilities. Grants made under this paragraph shall be considered a part of any grant authorized by paragraph (a) or (d) of this subsection if the project is approved.

(f) To acquire, by purchase, or otherwise, general obligation bonds or other obligations of any municipal corporation, city, county, or agency of the State of Oregon, or combinations thereof, issued or made for the purpose of paragraph (d) of this subsection in an amount not to exceed 100 percent of the total project costs.

(g) To advance funds by contract, loan or otherwise, to any municipal corporation, city, county or agency of the State of Oregon, or combination thereof, for the purpose of paragraphs (a) and (d) of this subsection in an amount not to exceed 100 percent of the total project costs.

(h) To pay compensation required by law to be paid by the state for the acquisition of real property for the disposal by storage of environmentally hazardous wastes.

(i) To dispose of environmentally hazardous wastes by the Department of Environmental Quality whenever the department finds that an emergency exists requiring such disposal.

(j) To acquire for the state real property and facilities for the disposal by landfill, storage or otherwise of solid waste, including but not limited to, transfer and resource recovery facilities.

(k) To acquire for the state real property and facilities for the disposal by incineration or otherwise of hazardous waste or PCB.

(L) To provide funding for the Assessment Deferral Loan Program Revolving Fund established in ORS 454.436.

(m) To provide funding for the Orphan Site Account established in ORS 465.381 but only to the extent that the department reasonably estimates that debt service from bonds issued to finance such facilities or activities shall be fully paid from fees collected pursuant to ORS 453.402 (2)(c), under

ORS 459.236 and under ORS 465.101 to 465.131 for the purpose of providing funds for the Orphan Site Account and other available funds, but not from repayments of financial assistance under ORS 465.265 to 465.310 or from moneys recovered from responsible parties.

(n) To advance funds by contract, loan or otherwise, to any municipal corporation, city, county or agency of this state, or combination thereof, for facilities or activities related to removal or remedial action of hazardous substances.

(o) To provide funding for the Water Pollution Control Revolving Fund established under ORS 468.427, either as a grant or an advance. If the funding provided is an advance, the department shall establish the program described in ORS 468.433 (2) to pay the bonds that funded the advance.

(p) To fund loans to or buy debt obligations of a public agency, as defined in ORS 468.423, that finance the costs of treatment works, as defined in ORS 468.423, which are funded in part through the Water Pollution Control Revolving Fund.

(q) To provide funding for remedial actions related to contaminated sediment found in the submerged and submersible lands, as those terms are defined in ORS 274.005, within the Willamette River between Swan Island and the confluence of the Willamette and Columbia Rivers and associated remedial actions. The funding provided under this paragraph may be used for remedial action costs, as defined in ORS 465.200.

(2) The facilities referred to in subsection (1)(a) to (c) of this section shall be only such as conservatively appear to the department to be not less than 70 percent self-supporting and self-liquidating from revenues, gifts, grants from the federal government, user charges, assessments and other fees.

(3) The facilities referred to subsection (1)(d), (f) and (g) of this section shall be only such as conservatively appear to the department to be not less than 70 percent self-supporting and self-liquidating from revenues, gifts, grants from the federal government, user charges, assessments and other fees.

(4) The real property and facilities that receive funding under subsection (1)(j), (k), (o) and (p) of this section shall be only such as conservatively appear to the department to be not less than 70 percent self-supporting and self-liquidating from revenues, gifts, grants from the federal government, user charges, assessments and other fees.

(5) The department may sell or pledge any bonds, notes or other obligations acquired under subsection (1)(b) of this section.

(6) Before making a loan or grant to or acquiring general obligation bonds or other obligations of a municipal corporation, city, county or agency for facilities for the disposal of solid waste or planning for such facilities, the department shall require the applicant to demonstrate that it has adopted a solid waste management plan that has been approved by the department. The plan must include a waste reduction program.

(7) Any grant authorized by this section shall be made only with the prior review of the Joint Committee on Ways and Means during the legislative sessions or the Emergency Board **or the Joint Interim Committee on Ways and Means** during the interim period between sessions.

(8) The department may assess those entities to whom grants and loans are made under this section to recover expenses incurred in administering this section.

SECTION 17. ORS 656.612 is amended to read:

656.612. (1) The Director of the Department of Consumer and Business Services shall impose and collect assessments from all insurers, self-insured employers and self-insured employer groups in an amount sufficient to pay the expenses of the Department of Consumer and Business Services under this chapter and ORS chapter 654 and under the Insurance Code. The assessments shall be paid in *[such]* **the** manner and at *[such]* intervals as the director may direct and when collected shall be deposited in the Consumer and Business Services Fund. *[Such]* **The** receipts in the account are continuously appropriated to the department for the purpose described in this subsection.

(2) The assessments shall be levied against the insurers' direct earned premium and the direct earned premium self-insured employers and self-insured employer groups would have paid had they been insured employers.

(3) The director may impose and collect an additional assessment from self-insured employer groups in an amount sufficient to pay the additional expenses involved in administering the group self-insured program.

(4) The director may establish a minimum assessment applicable to all insurers, self-insured employers and self-insured employer groups and shall establish the time, manner and method of imposing and collecting assessments subject to applicable budgeting and fiscal laws.

(5) The assessments required under this section shall be developed pursuant to ORS 183.310 to 183.410 and in such a manner that will reasonably and substantially accomplish the objective of subsection (2) of this section at the least possible administrative cost to everyone.

(6) Assessments developed by the department under this section shall be reported to the Joint [Legislative] Committee on Ways and Means or, during the interim between sessions of the Legislative Assembly, to the Emergency Board **or to the Joint Interim Committee on Ways and Means**.

SECTION 18. ORS 731.272 is amended to read:

731.272. (1) The Director of the Department of Consumer and Business Services shall prepare annually, as soon after March 1 as is consistent with full and accurate preparation, a report of the official transactions of the director under the Insurance Code. The report shall include:

(a) In condensed form statements made to the director by every insurer authorized to do business in this state.

(b) A statement of all insurers authorized to do business in this state as of the date of the report.

(c) A list of insurers whose business in this state was terminated and the reason for the termination. If the termination was a result of liquidation or delinquency proceedings brought against the insurer in this or any other state, the report shall include the amount of the insurer's assets and liabilities so far as those amounts are known to the director.

(d) A statement of the operating expenses of the Department of Consumer and Business Services under the Insurance Code, including salaries, transportation, communication, printing, office supplies, fixed charges and miscellaneous expenses.

(e) A detailed statement of the moneys, fees and taxes received by the department under the Insurance Code and from what source.

(f) Any other pertinent information and matters as the director considers to be in the public interest.

(2) The director shall give notice of the publication of the report to:

(a) The office of the Speaker of the House of Representatives;

(b) The office of the President of the Senate; and

(c) The chair or cochair of the Joint [Legislative] Committee on Ways and Means if the Legislative Assembly is in session or of the Emergency Board **or the Joint Interim Committee on Ways and Means** if during the interim.

MISCELLANEOUS REPORTING REQUIREMENTS

SECTION 19. ORS 278.125 is amended to read:

278.125. (1) The Oregon Department of Administrative Services is authorized to negotiate for and purchase such insurance as [it] **the department** deems necessary or desirable to accomplish the purposes of this chapter and ORS 30.260 to 30.300 and 278.322, or such other insurance or reinsurance as may be desirable to insure the state, participating local public bodies or their officers, employees or agents against liability.

(2) The premium for [such] **the** insurance shall be paid from the Insurance Fund as either an administrative expense or charged to the benefiting state agency, agencies or participating local public bodies.

(3) The department [shall] **may** not implement any plan of self-insurance insuring any part of the liability of the state or its officers, employees or agents under ORS 30.260 to 30.300 until after the

plan has been submitted to and approved by the Joint **Committee on Ways and Means** [*Committee*] of the Legislative Assembly[, *if the legislature is in session, or the Emergency Board*].

SECTION 20. ORS 286A.160 is amended to read:

286A.160. (1) Notwithstanding any law limiting expenditures of a state agency, for the purpose of repaying obligations of the state to obtain savings in total or periodic debt service payments, a law limiting expenditures does not apply to payments approved by the State Treasurer for administrative expenses, debt service or financing costs that are necessary or appropriate for the retirement or refunding of bonds unless the law limiting expenditures creates a specific exception to this section.

(2) The Oregon Department of Administrative Services may establish administrative limitations on the payment and recording of expenditures made pursuant to subsection (1) of this section.

(3) The Oregon Department of Administrative Services shall report incurred expenses and debt service savings resulting from actions taken under subsection (1) of this section that affect administrative expenses, debt service or financing costs paid with moneys out of the General Fund or lottery funds, within 90 days of taking action, to the Joint Committee on Ways and Means if the Legislative Assembly is in session or to the Emergency Board **or to the Joint Interim Committee on Ways and Means** during the interim between legislative sessions.

SECTION 21. ORS 291.342 is amended to read:

291.342. (1) By August 15 of each year, but not earlier than 90 days from the end of the regular session of the Legislative Assembly held in that calendar year, the Oregon Department of Administrative Services, with the assistance of the Department of Revenue, shall:

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

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

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

(3) In carrying out its duties under subsection (2) of this section, the Oregon Department of Administrative Services shall issue quarterly a statement setting forth the methodology and assumptions used in making the revenue estimate. Nothing in this subsection requires the statement to set forth procedures used or methods used to determine either the methodology or the assumptions.

SECTION 22. ORS 291.349 is amended to read:

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

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

(3) If the revenues received from the corporate income and excise taxes during the biennium exceed the amounts estimated to be received from such taxes for the biennium, as estimated after adjournment sine die of the odd-numbered year regular session, by two percent or more, the total amount of that excess shall be credited to corporate income and excise taxpayers in a percentage amount of prior year 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 odd-numbered year regular session, by two percent or more, there shall be credited to personal income taxpayers an amount equal to the total amount of that excess, reduced by the cost certified by the Department of Revenue under ORS 291.351 as being allocable to credits described under this subsection. The excess amount to be credited shall be credited to personal income taxpayers in a percentage amount of prior year personal income tax liability as determined under subsection (5) of this section.

(5)(a) If there is an excess to be credited under subsection (3) or (4) of this section, or both, on or before October 1, following the end of each biennium, the Oregon Department of Administrative Services shall determine and certify to the Department of Revenue the percentage amounts of credit for purposes of subsection (3) or (4) of this section. The percentage amounts determined shall be percentage amounts to the nearest one-tenth of a percent that will distribute the excess to be credited either to corporate excise and income taxpayers or to personal income taxpayers.

(b) The percentage amount applicable to subsection (3) of this section shall equal the amount distributed under subsection (3) of this section divided by the estimated total corporate income and excise tax liability for all corporate income and excise taxpayers for tax years beginning in the calendar year immediately preceding the calendar year in which the excess is determined.

(c) The amount of the surplus credit under subsection (3) of this section is determined by multiplying the percentage amount determined under paragraph (b) of this subsection by the total amount of a corporate income or excise taxpayer's tax liability for the tax year beginning in the calendar year immediately preceding the calendar year in which the excess is determined in order to calculate the amount to be credited to the taxpayer.

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

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

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

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

(h) For corporate income and excise taxpayers, if a credit applied against tax liability as described in paragraph (g) of this subsection reduces tax liability to zero and an amount of the credit remains unused, the remaining unused amount shall be carried forward and applied against tax li-

ability as prescribed in paragraph (g) of this subsection in the succeeding tax year. Following application of the credit against tax liability in a succeeding tax year, any amount continuing to remain unused shall be carried forward and applied against tax liability in a succeeding tax year until all remaining amounts of unused credit are offset against tax liability.

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

(j) Notwithstanding paragraph (g) of this subsection, if an excess is credited under subsection (3) of this section for a tax year and an unused credit amount from a prior tax year is carried forward to the tax year as prescribed under paragraph (h) of this subsection, the amount of the carryforward credit shall be applied against tax liability prior to applying the new credit.

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

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

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

(8) The Department of Revenue may adopt rules specifying the manner for issuing refunds under this section to taxpayers who filed returns in the tax year on which the credit is computed but who are not required to file returns in the year in which the credit could be claimed.

SECTION 23. ORS 390.124 is amended to read:

390.124. (1) In accordance with any applicable provision of ORS chapter 183, the State Parks and Recreation Commission may adopt rules necessary to carry out the duties, functions and powers imposed by law upon the commission and the State Parks and Recreation Department. Rules adopted pursuant to this section shall be duly entered in the minutes and records of the commission.

(2) The commission may adopt rules that assess reasonable charges[, *including fee reductions, waivers and exemptions,*] for the use of areas established and maintained by the department. **The department may also adopt rules establishing reductions in waivers of or exemption from the charges.** However, the commission shall authorize the use of any state park, individual campsite or day use fee area without charge:

(a) Upon the showing of proper identification, by a person maintaining a foster home, as defined by ORS 418.625, and the person's children, when accompanied by a foster child residing in the home.

(b) Upon the showing of proper identification, by a person maintaining a developmental disability child foster home, as defined by ORS 443.830, and the person's children, when accompanied by a foster child residing in the home.

(c) If a deed to, lease of or contract to use the property used as a state park, campsite or day use fee area prohibits the charging of fees for use of the property.

(d) Upon the showing of proper identification, by either a disabled veteran or a person on leave from military active duty status on Memorial Day, Independence Day or Veterans Day.

[*3) The commission shall report to an appropriate committee of the Legislative Assembly, no later than January 31 of each odd-numbered year, on the fee reductions, waivers and exemptions adopted by rule by the commission pursuant to subsection (2) of this section.*]

[*4) (3) The commission shall adopt any rules pursuant to ORS chapter 183 that the commission considers necessary to carry out ORS 273.563 to 273.591.*]

SECTION 24. ORS 390.134 is amended to read:

390.134. (1) As used in this section:

(a) "Camper" has the meaning given that term in ORS 801.180.

(b) "County" includes a metropolitan service district organized under ORS chapter 268, but only to the extent that the district has acquired, through title transfer, and is operating a park or recreation site of a county pursuant to an intergovernmental agreement.

(c) "Motor home" has the meaning given that term in ORS 801.350.

(d) "Travel trailer" has the meaning given that term in ORS 801.565.

(2) The State Parks and Recreation Department Fund is established separate and distinct from the General Fund. Moneys in the fund are continuously appropriated to the State Parks and Recreation Department for the purposes provided by law. The fund shall consist of the following:

(a) All moneys placed in the fund as provided by law. Any interest or other income derived from the depositing or other investing of the fund must be credited to the fund.

(b) All registration fees received by the Department of Transportation for campers, motor homes and travel trailers that are transferred to the fund under ORS 366.512. The funds must be deposited in a separate subaccount established under subsection (3) of this section.

(c) Revenue from [*fees and*] charges pursuant to ORS 390.124.

(3) Any moneys placed in the fund for a particular purpose may be placed in a separate subaccount within the fund. Each separate subaccount established under this subsection must be separately accounted for. Moneys placed in a subaccount must be used for the purposes for which they are deposited.

(4) All of the moneys in the fund except those moneys described in subsection (3), (5), (6), (7), (8) or (9) of this section must be deposited in a separate subaccount within the fund and used by the State Parks and Recreation Department for the acquisition, development, maintenance, care and use of park and recreation sites and for the maintenance and operation of the Oregon State Fair. The moneys **deposited** in the subaccount under this subsection must be accounted for separately and stated separately in the State Parks and Recreation Department's biennial budget.

(5)(a) Thirty-five percent of the amount transferred to the State Parks and Recreation Department under ORS 366.512 from the registration of travel trailers, campers and motor homes and under ORS 803.601 from recreational vehicle trip permits must be deposited in a separate subaccount within the fund to be distributed for the acquisition, development, maintenance, care and use of county park and recreation sites. The moneys **deposited** in the subaccount under this paragraph must be accounted for separately. The following apply to the distribution of moneys under this paragraph:

(A) The moneys must be distributed among the several counties for the purposes described in this paragraph. The distribution shall be made at times determined by the State Parks and Recreation Department but must be made not less than once a year.

(B) The sums designated under this paragraph must be remitted to the county treasurers of the several counties by warrant.

(b) The department shall establish an advisory committee to advise the department in the performance of its duties under this subsection. The composition of the advisory committee under this subsection is as determined by the department by rule. In determining the composition of the advisory committee, the department shall attempt to provide reasonable representation for county officials or employees with responsibilities relating to county parks and recreation sites.

(c) The department, by rule, shall establish a program to provide moneys to counties for the acquisition, development, maintenance, care and use of county park and recreation sites. The rules under this paragraph shall provide for distribution of moneys based on use and need and, as the department determines necessary, on the need for the development and maintenance of facilities to provide camping sites for campers, motor homes and travel trailers.

(6) The department shall create a separate City and County Subaccount within the fund to be used to reimburse cities and counties as provided in ORS 390.290.

(7) The department shall create a separate rural Fire Protection District Subaccount to be used to provide funds for the fire protection districts as provided in ORS 390.290.

(8) Twelve percent of the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount shall be used only to carry out the purposes and achievements

described in ORS 390.135 (2) and (3) through the awarding of grants to regional or local government entities to acquire property for public parks, natural areas or outdoor recreation areas or to develop or improve public parks, natural areas or outdoor recreation areas. Moneys described in this subsection may not be used to pay the cost of administering grants or the cost of any Secretary of State audit required under section 4c, Article XV of the Oregon Constitution.

(9) If the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount during a biennium is more than 150 percent of the amount that was transferred during the 2009-2011 biennium, the State Treasurer shall, during the next following biennium, deposit for use as described in subsection (8) of this section the amount required under subsection (8) of this section plus an amount equal to the difference between the amount deposited for use as described in subsection (8) of this section during the preceding biennium and 25 percent of the moneys transferred to the State Parks and Recreation Department Fund from the Parks Subaccount during the preceding biennium.

(10) Subsections (8) and (9) of this section apply only for biennia in which the Legislative Assembly does not require a greater percentage of the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount to be used for the purposes described in subsection (8) of this section. The Legislative Assembly may not authorize the percentage of the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount that is deposited for use as described in subsection (8) of this section in a biennium to be less than the percentage required to be deposited under subsections (8) and (9) of this section.

[(11) On or before January 15 of each odd-numbered year, the State Parks and Recreation Director shall report to the Joint Committee on Ways and Means created by ORS 171.555 on the use of moneys deposited pursuant to ORS 805.256 in the fund. Notwithstanding ORS 192.230 to 192.250, the director shall make the report in a form and manner as the committee may prescribe.]

[(12)] **(11)** On or before January 15 of each odd-numbered year, the director shall submit a report to the Joint Committee on Ways and Means created by ORS 171.555, **or the Joint Interim Committee on Ways and Means**, that describes the measurable biennial and cumulative results of activities and programs financed by moneys transferred to the State Parks and Recreation Department Fund from the Parks Subaccount. Notwithstanding ORS 192.230 to 192.250, the director shall make the report in a form and manner as the committee may prescribe.

SECTION 25. ORS 390.134, as amended by section 2, chapter 792, Oregon Laws 2007, section 47, chapter 11, Oregon Laws 2009, and section 5, chapter 643, Oregon Laws 2011, is amended to read:

390.134. (1) As used in this section:

(a) "Camper" has the meaning given that term in ORS 801.180.

(b) "County" includes a metropolitan service district organized under ORS chapter 268, but only to the extent that the district has acquired, through title transfer, and is operating a park or recreation site of a county pursuant to an intergovernmental agreement.

(c) "Motor home" has the meaning given that term in ORS 801.350.

(d) "Travel trailer" has the meaning given that term in ORS 801.565.

(2) The State Parks and Recreation Department Fund is established separate and distinct from the General Fund. Moneys in the fund are continuously appropriated to the State Parks and Recreation Department for the purposes provided by law. The fund shall consist of the following:

(a) All moneys placed in the fund as provided by law. Any interest or other income derived from the depositing or other investing of the fund must be credited to the fund.

(b) All registration fees received by the Department of Transportation for campers, motor homes and travel trailers that are transferred to the fund under ORS 366.512. The funds must be deposited in a separate subaccount established under subsection (3) of this section.

(c) Revenue from *[fees and]* charges pursuant to ORS 390.124.

(3) Any moneys placed in the fund for a particular purpose may be placed in a separate subaccount within the fund. Each separate subaccount established under this subsection must be sepa-

rately accounted for. Moneys placed in a subaccount must be used for the purposes for which they are deposited.

(4) All of the moneys in the fund except those moneys described in subsection (3), (5), (6), (7), (8) or (9) of this section must be deposited in a separate subaccount within the fund and used by the State Parks and Recreation Department for the acquisition, development, maintenance, care and use of park and recreation sites and for the maintenance and operation of the Oregon State Fair. The moneys **deposited** in the subaccount under this subsection must be accounted for separately and stated separately in the State Parks and Recreation Department's biennial budget.

(5)(a) Thirty percent of the amount transferred to the State Parks and Recreation Department under ORS 366.512 from the registration of travel trailers, campers and motor homes and under ORS 803.601 from recreational vehicle trip permits must be deposited in a separate subaccount within the fund to be distributed for the acquisition, development, maintenance, care and use of county park and recreation sites. The moneys **deposited** in the subaccount under this paragraph must be accounted for separately. The following apply to the distribution of moneys under this paragraph:

(A) The moneys must be distributed among the several counties for the purposes described in this paragraph. The distribution shall be made at times determined by the State Parks and Recreation Department but must be made not less than once a year.

(B) The sums designated under this paragraph must be remitted to the county treasurers of the several counties by warrant.

(b) The department shall establish an advisory committee to advise the department in the performance of its duties under this subsection. The composition of the advisory committee under this subsection is as determined by the department by rule. In determining the composition of the advisory committee, the department shall attempt to provide reasonable representation for county officials or employees with responsibilities relating to county parks and recreation sites.

(c) The department, by rule, shall establish a program to provide moneys to counties for the acquisition, development, maintenance, care and use of county park and recreation sites. The rules under this paragraph shall provide for distribution of moneys based on use and need and, as the department determines necessary, on the need for the development and maintenance of facilities to provide camping sites for campers, motor homes and travel trailers.

(6) The department shall create a separate City and County Subaccount within the fund to be used to reimburse cities and counties as provided in ORS 390.290.

(7) The department shall create a separate rural Fire Protection District Subaccount to be used to provide funds for the fire protection districts as provided in ORS 390.290.

(8) Twelve percent of the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount shall be used only to carry out the purposes and achievements described in ORS 390.135 (2) and (3) through the awarding of grants to regional or local government entities to acquire property for public parks, natural areas or outdoor recreation areas or to develop or improve public parks, natural areas or outdoor recreation areas. Moneys described in this subsection may not be used to pay the cost of administering grants or the cost of any Secretary of State audit required under section 4c, Article XV of the Oregon Constitution.

(9) If the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount during a biennium is more than 150 percent of the amount that was transferred during the 2009-2011 biennium, the State Treasurer shall, during the next following biennium, deposit for use as described in subsection (8) of this section the amount required under subsection (8) of this section plus an amount equal to the difference between the amount deposited for use as described in subsection (8) of this section during the preceding biennium and 25 percent of the moneys transferred to the State Parks and Recreation Department Fund from the Parks Subaccount during the preceding biennium.

(10) Subsections (8) and (9) of this section apply only for biennia in which the Legislative Assembly does not require a greater percentage of the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount to be used for the purposes described in subsection (8) of this section. The Legislative Assembly may not authorize the percentage of the

amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount that is deposited for use as described in subsection (8) of this section in a biennium to be less than the percentage required to be deposited under subsections (8) and (9) of this section.

[(11) On or before January 15 of each odd-numbered year, the State Parks and Recreation Director shall report to the Joint Committee on Ways and Means created by ORS 171.555 on the use of moneys deposited pursuant to ORS 805.256 in the fund. Notwithstanding ORS 192.230 to 192.250, the director shall make the report in a form and manner as the committee may prescribe.]

[(12)] (11) On or before January 15 of each odd-numbered year, the director shall submit a report to the Joint Committee on Ways and Means created by ORS 171.555, **or the Joint Interim Committee on Ways and Means**, that describes the measurable biennial and cumulative results of activities and programs financed by moneys transferred to the State Parks and Recreation Department Fund from the Parks Subaccount. Notwithstanding ORS 192.230 to 192.250, the director shall make the report in a form and manner as the committee may prescribe.

CRIMINAL INJURIES COMPENSATION ACCOUNT

SECTION 26. Notwithstanding ORS 31.735, 131A.410, 137.183 and 147.225 and section 3, chapter 670, Oregon Laws 2011, the amount of \$56,200,000 is transferred from the Criminal Injuries Compensation Account to the General Fund for general governmental purposes.

SECRETARY OF STATE

SECTION 27. Notwithstanding ORS 56.041 and in addition to the transfers required by ORS 56.041 (4), the amount of \$1,057,904 is transferred from the Operating Account to the General Fund for general governmental purposes.

ECONOMIC DEVELOPMENT

SECTION 28. Notwithstanding section 3, chapter 93, Oregon Laws 2010, the amount of \$3,692,500 is transferred from the Building Opportunities for Oregon Small Business Today Account of the Oregon Business Development Fund to the General Fund for general governmental purposes.

GOVERNOR'S OFFICE

SECTION 29. The Governor's Office Operating Fund is established in the State Treasury, separate and distinct from the General Fund. Moneys in the Governor's Office Operating Fund are continuously appropriated to the Office of the Governor for the operating expenses of the Office of the Governor. The fund shall consist of moneys appropriated or transferred to the fund and moneys received under section 30 of this 2012 Act.

SECTION 30. The Office of the Governor may receive gifts, grants or contributions from any source, whether public or private. Moneys received under this section shall be deposited in the Governor's Office Operating Fund established by section 29 of this 2012 Act.

OREGON HEALTH AUTHORITY

SECTION 31. Notwithstanding ORS 431.832 (2), the amount of \$1,500,000 is transferred from the Tobacco Use Reduction Account to the General Fund for general governmental purposes. The transfer shall be made not later than June 30, 2013.

SECTION 32. (1) Notwithstanding ORS 426.506, during the period beginning July 1, 2012, and ending June 30, 2013, the Oregon Health Authority may transfer from the Community

Housing Trust Account established by ORS 426.506 to the Oregon Health Authority Fund established by ORS 413.101 an amount not to exceed \$5,726,586.

(2) Moneys transferred from the Community Housing Trust Account under subsection (1) of this section may be used only for community mental health services provided to children and adults with mental illness.

EMPLOYMENT DEPARTMENT

SECTION 33. Notwithstanding ORS 657.822, the amount of \$1,100,000 is transferred from the Employment Department Special Administrative Fund to the General Fund for general governmental purposes.

SECTION 34. Notwithstanding ORS 657.783, the amount of \$9,000,000 is transferred from the Supplemental Employment Department Administration Fund to the General Fund for general governmental purposes.

DEPARTMENT OF REVENUE

SECTION 35. Notwithstanding section 7, chapter 710, Oregon Laws 2009, the amount of \$3,000,000 is transferred from the Tax Amnesty Fund to the General Fund for general governmental purposes.

STATE FINANCE

SECTION 36. Section 3, chapter 21, Oregon Laws 2011, as amended by section 3, chapter 496, Oregon Laws 2011, is amended to read:

Sec. 3. (1) Based on the findings in section 1, chapter 21, Oregon Laws 2011, and pursuant to section 4 (6), Article XV of the Oregon Constitution, on [June 1, 2012] **September 1, 2012**, the State Treasurer shall transfer \$100 million from the Education Stability Fund established under section 4 (4)(d), Article XV of the Oregon Constitution, and ORS 348.696 to the 2011-2012 School Year Subaccount established by section 2, chapter 21, Oregon Laws 2011.

(2) Moneys transferred under this section may be used in the manner provided by section 5, chapter 21, Oregon Laws 2011, for moneys in the 2011-2012 School Year Subaccount.

PUBLIC DEFENSE SERVICES ACCOUNT

SECTION 37. ORS 151.225 is amended to read:

151.225. (1) *[There is created a]* **The Public Defense Services Account** *[in]* **is established separate and distinct from** the General Fund. The Public Defense Services Account is continuously appropriated to the Public Defense Services Commission to *[pay compensation of counsel and]*:

(a) Reimburse the actual costs and expenses, including personnel expenses, incurred in administration and support of the public defense system;

(b) Reimburse the State Court Administrator under ORS 151.216 (1)(i); and

(c) Pay other expenses in connection with the legal representation of persons for which the commission is responsible by law, **including expenses incurred in the administration of the public defense system.**

[(2) All moneys appropriated to the commission to pay compensation of counsel and other expenses in connection with the legal representation of persons for which the commission is responsible by law shall be deposited in the Public Defense Services Account.]

[(3)] **(2)** All moneys received by the Judicial Department under ORS 135.050 (8), 151.487 (1), 419A.211, 419B.198 (1), *[or]* 419C.203 (1) **or 419C.535 (2)** shall be deposited in *[a separate subaccount created in]* the Public Defense Services Account *[to be used by the public defense services executive*

director to reimburse the actual costs and expenses, including personnel expenses, incurred in administration and support of the public defense system].

[(4)] (3) All gifts, grants or contributions accepted by the commission under ORS 151.216 shall be deposited in a separate subaccount created in the Public Defense Services Account to be used by the commission for the purpose for which the gift, grant or contribution was given or granted.

[(5) As used in this section, "other expenses in connection with the legal representation of persons for which the commission is responsible by law" includes expenses incurred in the administration of the public defense system.]

SECTION 38. The amendments to ORS 151.225 by section 37 of this 2012 Act are intended, in part, to convert the Public Defense Services Account from an account in the General Fund to an account separate and distinct from the General Fund. The account that is separate and distinct from the General Fund shall be considered a continuation of the account that was an account within the General Fund immediately before the operative date of the amendments to ORS 151.225 by section 37 of this 2012 Act, as specified in section 49 of this 2012 Act.

SECTION 39. ORS 45.275 is amended to read:

45.275. (1) The court shall appoint a qualified interpreter in a civil or criminal proceeding, and a hearing officer or the designee of a hearing officer shall appoint a qualified interpreter in an adjudicatory proceeding, whenever it is necessary:

- (a) To interpret the proceedings to a non-English-speaking party;
- (b) To interpret the testimony of a non-English-speaking party or witness; or
- (c) To assist the court, agency or hearing officer in performing the duties and responsibilities of the court, agency or hearing officer.

(2) [No fee shall] **A fee may not** be charged to any person for the appointment of an interpreter to interpret testimony of a non-English-speaking party or witness, or to assist the court, agency or hearing officer in performing the duties and responsibilities of the court, agency or hearing officer. [No fee shall] **A fee may not** be charged to a non-English-speaking party who is unable to pay for the appointment of an interpreter to interpret the proceedings to the non-English-speaking party. [No fee shall] **A fee may not** be charged to any person for the appointment of an interpreter if appointment is made to determine whether the person is unable to pay or non-English-speaking for the purposes of this section.

(3) A non-English-speaking party [shall be] **is** considered unable to pay for an interpreter for the purposes of this section if:

(a) The party makes a verified statement and provides other information in writing under oath showing financial inability to pay for a qualified interpreter, and provides any other information required by the court or agency concerning the inability to pay for such an interpreter; and

(b) It appears to the court or agency that the party is in fact unable to pay for a qualified interpreter.

(4) Fair compensation for the services of an interpreter appointed under this section shall be paid:

(a) By the county, subject to the approval of the terms of the contract by the governing body of the county, in a proceeding in a county or justice court.

(b) By the city, subject to the approval of the terms of the contract by the governing body of the city, in a proceeding in a municipal court.

(c) By the state in a proceeding in a circuit court. Amounts payable by the state [shall be from funds available to the court other than] **are not payable from** the Public Defense Services Account established by ORS 151.225[except that] **or from moneys appropriated to the Public Defense Services Commission. Fees of an interpreter necessary for the purpose of communication between appointed counsel and a client or witness in a criminal case [shall be payable from that account] are payable from the Public Defense Services Account or from moneys appropriated to the Public Defense Services Commission.**

(d) By the agency in an adjudicatory proceeding.

(5) If a party or witness is dissatisfied with the interpreter appointed by the court, the hearing officer or the designee of the hearing officer, the party or witness may request the appointment of a different certified interpreter. A request under this subsection must be made in a manner consistent with the policies and notice requirements of the court or agency relating to the appointment and scheduling of interpreters. If the substitution of another interpreter will delay the proceeding, the person making the request must show good cause for the substitution. Any party may object to use of any interpreter for good cause. Unless the court, hearing officer or the designee of the hearing officer has appointed a different interpreter for cause, the party using any interpreter other than the interpreter originally appointed by the court, hearing officer or the designee of the hearing officer shall bear any additional costs beyond the amount required to pay the original interpreter.

(6) A judge or hearing officer, on the judge's or hearing officer's own motion, may substitute a different interpreter for the interpreter initially appointed in a proceeding. A judge or hearing officer may make a substitution under this subsection at any time and for any reason.

(7) A court may allow as costs reasonable expenses incurred by a party in employing the services of an interpreter in civil proceedings in the manner provided by ORCP 68.

(8) A court, a hearing officer or the designee of a hearing officer shall require any person serving as an interpreter for the court or agency to state the person's name on the record and whether the person is certified under ORS 45.291. If the person is certified under ORS 45.291, the interpreter need not make the oath or affirmation required by ORS 40.325 or submit the interpreter's qualifications on the record. If the person is not certified under ORS 45.291, the interpreter must make the oath or affirmation required by ORS 40.325 and submit the interpreter's qualifications on the record.

(9) For the purposes of this section:

(a) "Hearing officer" includes an administrative law judge.

(b) "Non-English-speaking person" means a person who, by reason of place of birth or culture, speaks a language other than English and does not speak English with adequate ability to communicate effectively in the proceedings.

(c) "Qualified interpreter" means a person who is readily able to communicate with the non-English-speaking person and who can orally transfer the meaning of statements to and from English and the language spoken by the non-English-speaking person. A qualified interpreter must be able to interpret in a manner that conserves the meaning, tone, level, style and register of the original statement, without additions or omissions. "Qualified interpreter" does not include any person who is unable to interpret the dialect, slang or specialized vocabulary used by the party or witness.

SECTION 40. ORS 45.285 is amended to read:

45.285. (1) For the purposes of this section:

(a) "Assistive communication device" means any equipment designed to facilitate communication by a person with a disability.

(b) "Hearing officer" includes an administrative law judge.

(c) "Person with a disability" means a person who cannot readily understand the proceedings because of deafness or a physical hearing impairment, or cannot communicate in the proceedings because of a physical speaking impairment.

(d) "Qualified interpreter" means a person who is readily able to communicate with the person with a disability, interpret the proceedings and accurately repeat and interpret the statements of the person with a disability to the court.

(2) In any civil action, adjudicatory proceeding or criminal proceeding, including a court-ordered deposition if no other person is responsible for providing an interpreter, in which a person with a disability is a party or witness, the court, hearing officer or the designee of the hearing officer shall appoint a qualified interpreter and make available appropriate assistive communication devices whenever it is necessary to interpret the proceedings to the person with a disability, or to interpret the testimony of the person with a disability.

(3) [No fee shall] **A fee may not** be charged to the person with a disability for the appointment of an interpreter or use of an assistive communication device under this section. [No fee shall] **A**

fee may not be charged to any person for the appointment of an interpreter or the use of an assistive communication device if appointment or use is made to determine whether the person has a disability for the purposes of this section.

(4) Fair compensation for the services of an interpreter or the cost of an assistive communication device under this section shall be paid:

(a) By the county, subject to the approval of the terms of the contract by the governing body of the county, in a proceeding in a county or justice court.

(b) By the city, subject to the approval of the terms of the contract by the governing body of the city, in a proceeding in a municipal court.

(c) By the state in a proceeding in a circuit court. Amounts payable by the state [*shall be from funds available to the court other than*] **are not payable from** the Public Defense Services Account established by ORS 151.225[, *except that*] **or from moneys appropriated to the Public Defense Services Commission.** Fees of an interpreter necessary for the purpose of communication between appointed counsel and a client or witness in a criminal case [*shall be payable from that account*] **are payable from the Public Defense Services Account or from moneys appropriated to the Public Defense Services Commission.**

(d) By the agency in an adjudicatory proceeding.

SECTION 41. ORS 135.050 is amended to read:

135.050. (1) Suitable counsel for a defendant shall be appointed by a municipal, county or justice court if:

(a) The defendant is before a court on a matter described in subsection (5) of this section;

(b) The defendant requests aid of counsel;

(c) The defendant provides to the court a written and verified financial statement; and

(d) It appears to the court that the defendant is financially unable to retain adequate representation without substantial hardship in providing basic economic necessities to the defendant or the defendant's dependent family.

(2) Suitable counsel for a defendant shall be appointed by a circuit court if:

(a) The defendant is before the court on a matter described in subsection (5) of this section;

(b) The defendant requests aid of counsel;

(c) The defendant provides to the court a written and verified financial statement; and

(d)(A) The defendant is determined to be financially eligible under ORS 151.485 and the standards established by the Public Defense Services Commission under ORS 151.216; or

(B) The court finds, on the record, substantial and compelling reasons why the defendant is financially unable to retain adequate representation without substantial hardship in providing basic economic necessities to the defendant or the defendant's dependent family despite the fact that the defendant does not meet the financial eligibility standards established by the commission.

(3) Appointed counsel may not be denied to any defendant merely because the defendant's friends or relatives have resources adequate to retain counsel or because the defendant has deposited or is capable of depositing security for release. However, appointed counsel may be denied to a defendant if the defendant's spouse has adequate resources which the court determines should be made available to retain counsel.

(4) The defendant's financial statement under subsection (1) or (2) of this section shall include, but not be limited to:

(a) A list of bank accounts in the name of defendant or defendant's spouse, and the balance in each;

(b) A list of defendant's interests in real property and those of defendant's spouse;

(c) A list of automobiles and other personal property of significant value belonging to defendant or defendant's spouse;

(d) A list of debts in the name of defendant or defendant's spouse, and the total of each; and

(e) A record of earnings and other sources of income in the name of defendant or defendant's spouse, and the total of each.

(5) Counsel must be appointed for a defendant who meets the requirements of subsection (1) or (2) of this section and who is before a court on any of the following matters:

(a) Charged with a crime.

(b) For a hearing to determine whether an enhanced sentence should be imposed when such proceedings may result in the imposition of a felony sentence.

(c) For extradition proceedings under the provisions of the Uniform Criminal Extradition Act.

(d) For any proceeding concerning an order of probation, including but not limited to the revoking or amending thereof.

(6) Unless otherwise ordered by the court, the appointment of counsel under this section shall continue during all criminal proceedings resulting from the defendant's arrest through acquittal or the imposition of punishment. The court having jurisdiction of the case may not substitute one appointed counsel for another except pursuant to the policies, procedures, standards and guidelines of the Public Defense Services Commission under ORS 151.216.

(7) If, at any time after the appointment of counsel, the court having jurisdiction of the case finds that the defendant is financially able to obtain counsel, the court may terminate the appointment of counsel. If, at any time during criminal proceedings, the court having jurisdiction of the case finds that the defendant is financially unable to pay counsel whom the defendant has retained, the court may appoint counsel as provided in this section.

(8) The court may order the defendant in a circuit court to pay to the Public Defense Services Account [*in the General Fund*] **established by ORS 151.225**, through the clerk of the court, in full or in part the administrative costs of determining the eligibility of the defendant for appointed counsel and the costs of the legal and other services that are related to the provision of appointed counsel under ORS 151.487[, 151.505 or 161.665].

(9) In addition to any criminal prosecution, a civil proceeding may be initiated by any public body which has expended moneys for the defendant's legal assistance within two years of judgment if the defendant was not qualified in accordance with subsection (1) or (2) of this section for legal assistance.

(10) The civil proceeding shall be subject to the exemptions from execution as provided for by law.

(11) As used in this section unless the context requires otherwise, "counsel" includes a legal advisor appointed under ORS 135.045.

SECTION 42. ORS 151.216 is amended to read:

151.216. (1) The Public Defense Services Commission shall:

(a) Establish and maintain a public defense system that ensures the provision of public defense services in the most cost-efficient manner consistent with the Oregon Constitution, the United States Constitution and Oregon and national standards of justice.

(b) Establish an office of public defense services and appoint a public defense services executive director who serves at the pleasure of the commission.

(c) Submit the budget of the commission and the office of public defense services to the Legislative Assembly after the budget is submitted to the commission by the director and approved by the commission. The Chief Justice of the Supreme Court and the chairperson of the commission shall present the budget to the Legislative Assembly.

(d) Review and approve any public defense services contract negotiated by the director before the contract can become effective.

(e) Adopt a compensation plan, classification system and personnel plan for the office of public defense services that are commensurate with other state agencies.

(f) Adopt policies, procedures, standards and guidelines regarding:

(A) The determination of financial eligibility of persons entitled to be represented by appointed counsel at state expense;

(B) The appointment of counsel;

(C) The fair compensation of counsel appointed to represent a person financially eligible for appointed counsel at state expense;

(D) Appointed counsel compensation disputes;

(E) Any other costs associated with the representation of a person by appointed counsel in the state courts that are required to be paid by the state under ORS 34.355, 135.055, 138.500, 138.590, 161.346, 161.348, 161.365, 419A.211, 419B.201, 419B.208, 419B.518, 419B.908, 419C.206, 419C.209, 419C.408, 419C.535, 426.100, 426.135, 426.250, 426.307, 427.265, 427.295, 436.265 or 436.315 or any other provision of law that expressly provides for payment of such compensation, costs or expenses by the commission;

(F) Professional qualifications for counsel appointed to represent public defense clients;

(G) Performance for legal representation;

(H) The contracting of public defense services;

(I) Contracting with expert witnesses to allow contracting with out-of-state expert witnesses only if in-state expert witnesses are not available or are more expensive than out-of-state expert witnesses; and

(J) Any other matters necessary to carry out the duties of the commission.

(g) Establish a peer review system for the approval of nonroutine fees and expenses incurred in cases involving aggravated murder and the crimes listed in ORS 137.700 and 137.707. The review shall be conducted by a panel of attorneys who practice in the area of criminal defense.

(h) Establish a complaint process that allows district attorneys, criminal defense counsel and the public to file complaints concerning the payment from public funds of nonroutine fees and expenses incurred in cases.

(i) Reimburse the State Court Administrator from funds deposited in the [subaccount] **Public Defense Services Account** established [under] by ORS 151.225 for the costs of personnel and other costs associated with location of eligibility verification and screening personnel pursuant to ORS 151.489 by the State Court Administrator.

(2) Policies, procedures, standards and guidelines adopted by the commission supersede any conflicting rules, policies or procedures of the Public Defender Committee, State Court Administrator, circuit courts, the Court of Appeals, the Supreme Court, the Psychiatric Security Review Board and the Oregon Health Authority related to the exercise of the commission's administrative responsibilities under this section and transferred duties, functions and powers as they occur.

(3) The commission may accept gifts, grants or contributions from any source, whether public or private. However, the commission may not accept a gift, grant or contribution if acceptance would create a conflict of interest. Moneys accepted under this subsection shall be deposited in the Public Defense Services Account [created in] **established by** ORS 151.225 and expended for the purposes for which given or granted.

(4) The commission may not:

(a) Make any decision regarding the handling of any individual case;

(b) Have access to any case file; or

(c) Interfere with the director or any member of the staff of the director in carrying out professional duties involving the legal representation of public defense clients.

SECTION 43. ORS 151.487 is amended to read:

151.487. (1) If in determining that a person is financially eligible for appointed counsel under ORS 151.485, the court finds that the person has financial resources that enable the person to pay in full or in part the administrative costs of determining the eligibility of the person and the costs of the legal and other services to be provided at state expense that are related to the provision of appointed counsel, the court shall enter a limited judgment requiring that the person pay to the Public Defense Services Account [in the General Fund] **established by ORS 151.225**, through the clerk of the court, the amount that it finds the person is able to pay without creating substantial hardship in providing basic economic necessities to the person or the person's dependent family. The amount that a court may require the person to pay is subject to the guidelines and procedures issued by the Public Defense Services Commission as provided in subsection (4) of this section.

(2) Failure to comply with the requirements of a limited judgment entered under this section is not grounds for contempt or grounds for withdrawal by the appointed attorney.

(3) Except as authorized in this section, [no] a person, organization or governmental agency may **not** request or accept a payment or promise of payment for assisting in the representation of a person by appointment.

(4) The commission shall promulgate and issue guidelines and procedures:

(a) For the determination of persons provided with appointed counsel who have some financial resources to pay in full or in part the administrative, legal and other costs under subsection (1) of this section; and

(b) Regarding the amounts persons may be required to pay by a court under subsection (1) of this section.

(5) The determination that a person is able to pay or partially able to pay, or that a person no longer has the ability to pay the amount ordered in subsection (1) of this section, is subject to review at any time by the court.

SECTION 44. ORS 419A.170 is amended to read:

419A.170. (1) In every case under ORS chapter 419B, the court shall appoint a court appointed special advocate. The court appointed special advocate is deemed a party in these proceedings, and in the furtherance thereof, may be represented by counsel, file pleadings and request hearings and may subpoena, examine and cross-examine witnesses. If the court appointed special advocate is represented by counsel, counsel shall be paid from funds available to the Court Appointed Special Advocate Volunteer Program. *[No funds from the Public Defense Services Account or]* **Counsel representing a court appointed special advocate may not be paid from moneys in the Public Defense Services Account established by ORS 151.225, from moneys appropriated to the Public Defense Services Commission or from Judicial Department operating funds** *[may be used for this purpose]*.

(2) Subject to the direction of the court, the duties of the court appointed special advocate are to:

(a) Investigate all relevant information about the case;

(b) Advocate for the child or ward, ensuring that all relevant facts are brought before the court;

(c) Facilitate and negotiate to ensure that the court, Department of Human Services, if applicable, and the child or ward's attorney, if any, fulfill their obligations to the child or ward in a timely fashion; and

(d) Monitor all court orders to ensure compliance and to bring to the court's attention any change in circumstances that may require a modification of the court's order.

(3) If a juvenile court does not have available to it a CASA Volunteer Program, or a sufficient number of qualified CASA volunteers, the court may, in fulfillment of the requirements of this section, appoint a juvenile department employee or other suitable person to represent the child or ward's interest in court pursuant to ORS 419A.012 or 419B.195.

(4) Any person appointed as a court appointed special advocate in any judicial proceeding on behalf of the child or ward is immune from any liability for defamation or statements made in good faith by that person, orally or in writing, in the course of the case review or judicial proceeding.

(5) Any person appointed as a court appointed special advocate, CASA Volunteer Program director, CASA Volunteer Program employee or member of the board of directors or trustees of any CASA Volunteer Program is immune from any liability for acts or omissions or errors in judgment made in good faith in the course or scope of that person's duties or employment as part of a CASA Volunteer Program.

(6) Whenever the court appoints a court appointed special advocate or other person under subsections (1) to (3) of this section to represent the child or ward, it may require a parent, if able, or guardian of the estate, if the estate is able, to pay, in whole or in part, the reasonable costs of CASA services including reasonable attorney fees. The court's order of payment is enforceable in the same manner as an order of support under ORS 419B.408.

(7) Upon presentation of the order of appointment by the court appointed special advocate, any agency, hospital, school organization, division, office or department of the state, doctor, nurse or other health care provider, psychologist, psychiatrist, police department or mental health clinic shall

permit the court appointed special advocate to inspect and copy, and may consult with the court appointed special advocate regarding, any records relating to the child or ward involved in the case, without the consent of the child, ward or parents.

(8) All records and information acquired or reviewed by a court appointed special advocate during the course of official duties are deemed confidential under ORS 419A.255.

(9) For the purposes of a Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.) grant to this state under Public Law No. 93-247, or any related state or federal legislation, a court appointed special advocate or other person appointed pursuant to subsections (1) to (3) of this section is deemed a guardian ad litem to represent the interests of the child or ward in proceedings before the court.

(10) There is created a Court Appointed Special Advocate (CASA) Fund in the General Fund. The fund consists of all moneys credited to it. Moneys in the Court Appointed Special Advocate Fund are continuously appropriated to the State Commission on Children and Families and may be used only to carry out the purposes of this section. The commission may apply for and receive funds from federal and private sources for carrying out the provisions of this section.

(11) The state commission may expend moneys from the Court Appointed Special Advocate Fund directly or indirectly through contracts or grants for the creation, supervision and operation of CASA Volunteer Programs statewide. The commission may also expend moneys from the Court Appointed Special Advocate Fund to pay the reasonable costs of its administration of the Court Appointed Special Advocate Fund. The commission shall adopt rules for carrying out its responsibilities under this section.

SECTION 45. ORS 419A.211 is amended to read:

419A.211. (1) If the child, ward, youth, youth offender, parent or guardian is determined to be entitled to, and financially eligible for, appointment of counsel at state expense in an appeal as provided in ORS 419A.200 and 419A.208, the court, upon request of the person or upon its own motion, shall appoint suitable counsel to represent the person. Counsel appointed by the court shall be paid compensation determined by the public defense services executive director as provided in ORS 135.055 if the circuit court is the appellate court or as provided in ORS 138.500 if the Court of Appeals or the Supreme Court is the appellate court. The court may not substitute one appointed counsel for another except pursuant to the policies, procedures, standards and guidelines of the Public Defense Services Commission.

(2)(a) When the court appoints counsel to represent the child, ward, youth or youth offender, it may order the parent, if able, or guardian of the estate, if the estate is able, to pay to the Public Defense Services Account [*in the General Fund*] **established by ORS 151.225**, through the clerk of the court, in full or in part the administrative costs of determining the ability of the parents or estate to pay for legal services and the costs of the legal and other services that are related to the provision of appointed counsel.

(b) The test of the parent's or estate's ability to pay costs under paragraph (a) of this subsection is the same test as applied to appointment of counsel for defendants under ORS 151.216. If counsel is provided at state expense, the court shall apply this test in accordance with the guidelines adopted by the Public Defense Services Commission under ORS 151.485.

(c) If counsel is provided at state expense, the court shall determine the amount the parents or estate is required to pay for the costs of administrative, legal and other services related to the provision of appointed counsel in the same manner as this amount is determined under ORS 151.487.

(d) The court's order of payment is enforceable in the same manner as an order of support under ORS 419B.408 and 419C.600.

(3) When the court appoints counsel and the child, ward, youth, youth offender, parent or guardian has been determined to be entitled to, and financially eligible for, appointed counsel at state expense, the compensation for counsel and costs and expenses necessary to the appeal shall be determined and paid as provided in ORS 135.055 if the circuit court is the appellate court or as provided in ORS 138.500 if the Court of Appeals or the Supreme Court is the appellate court.

SECTION 46. ORS 419B.198 is amended to read:

419B.198. (1) When the court appoints counsel to represent a child or ward, it may order the parent, if able, or guardian of the estate, if the estate is able, to pay to the Public Defense Services Account [*in the General Fund*] **established by ORS 151.225**, through the clerk of the court, in full or in part the administrative costs of determining the ability of the parents or estate to pay for legal services and the costs of the legal and other services that are related to the provision of appointed counsel.

(2) The test of the parent's or estate's ability to pay costs under subsection (1) of this section is the same test as applied to appointment of counsel for defendants under ORS 135.050 or under the policies, procedures, standards and guidelines adopted under ORS 151.216. If counsel is provided at state expense, the court shall apply this test in accordance with the guidelines adopted by the Public Defense Services Commission under ORS 151.485.

(3) If counsel is provided at state expense, the court shall determine the amount the parents or estate is required to pay for the costs of administrative, legal and other services related to the provision of appointed counsel in the same manner as this amount is determined under ORS 151.487.

(4) The court's order of payment is enforceable in the same manner as an order of support under ORS 419B.408.

SECTION 47. ORS 419C.203 is amended to read:

419C.203. (1) When the court appoints counsel to represent a youth, it may order the youth, if able, parent, if able, or guardian of the estate, if the estate is able, to pay to the Public Defense Services Account [*in the General Fund*] **established by ORS 151.225**, through the clerk of the court, in full or in part the administrative costs of determining the ability of the youth, parents or estate to pay for legal services and the costs of the legal and other services that are related to the provision of appointed counsel.

(2) The test of the youth's, parent's or estate's ability to pay costs under subsection (1) of this section is the same test as applied to appointment of counsel for defendants under ORS 135.050 or under the policies, procedures, standards and guidelines adopted under ORS 151.216. If counsel is provided at state expense, the court shall apply this test in accordance with the guidelines adopted by the Public Defense Services Commission under ORS 151.485.

(3) If counsel is provided at state expense, the court shall determine the amount the youth, parents or estate is required to pay for the costs of administrative, legal and other services related to the provision of appointed counsel in the same manner as this amount is determined under ORS 151.487.

(4) In determining whether to order the youth to pay costs under subsection (1) of this section, the court shall also consider the reformatory effect of having the youth pay. The court may order that a portion of any moneys earned by the youth in juvenile work projects be used to pay costs ordered under subsection (1) of this section.

(5) The court's order of payment is enforceable in the same manner as an order of support under ORS 419C.600.

SECTION 48. ORS 419C.535 is amended to read:

419C.535. (1) If the juvenile panel of the Psychiatric Security Review Board determines that a young person about whom a hearing under ORS 419C.532 is being held is financially eligible, the juvenile panel shall appoint suitable counsel to represent the young person. Counsel appointed must be an attorney who satisfies the professional qualification standards established by the Public Defense Services Commission under ORS 151.216. The public defense services executive director shall determine and allow fair compensation for counsel appointed under this subsection and the reasonable expenses of the young person in respect to the hearing. Compensation payable to appointed counsel may not be less than the applicable compensation level established under ORS 151.216. The public defense services executive director shall pay compensation and expenses allowed from funds available for that purpose.

(2) When the juvenile panel appoints counsel to represent the young person, the juvenile panel may order the young person, if able, parent, if able, or guardian of the estate, if the estate is able, to pay to the Public Defense Services Account [*in the General Fund*] **established by ORS 151.225**,

through the clerk of the court, in full or in part, the administrative costs of determining the ability of the young person, parent or estate to pay for legal services and the costs of the legal and other services that are related to the provision of appointed counsel. The juvenile panel's order of payment may be entered in the County Clerk Lien Record and enforced as provided in ORS 205.126.

(3) The test of the young person's, parent's or estate's ability to pay costs under subsection (2) of this section is the same test as applied to appointment of counsel for defendants under ORS 135.050 or under the rules adopted under ORS 151.216. If counsel is provided at state expense, the juvenile panel shall apply this test in accordance with the guidelines adopted by the Public Defense Services Commission under ORS 151.485.

(4) If counsel is provided at state expense, the juvenile panel shall determine the amount the young person, parent or estate is required to pay for the costs of administrative, legal and other services related to the provision of appointed counsel in the same manner as this amount is determined under ORS 151.487.

(5) The Attorney General may represent the state at contested hearings before the juvenile panel unless the district attorney of the county in which the young person was adjudicated elects to represent the state. The district attorney of the county in which the young person was adjudicated shall cooperate with the Attorney General in securing the material necessary for presenting a contested hearing before the juvenile panel. If the district attorney elects to represent the state, the district attorney shall give timely written notice to the Attorney General, the juvenile panel and the attorney representing the young person.

SECTION 49. Section 38 of this 2012 Act and the amendments to ORS 45.275, 45.285, 135.050, 151.216, 151.225, 151.487, 419A.170, 419A.211, 419B.198, 419C.203 and 419C.535 by sections 37 and 39 to 48 of this 2012 Act become operative on July 1, 2012.

STATE AGENCY FEE APPROVAL

SECTION 50. For the purpose of carrying out the provisions of ORS 291.055 (1)(e), the following new or increased fees, adopted by the Oregon Health Authority and approved by the Oregon Department of Administrative Services, are approved for the Oregon environmental laboratory accreditation program:

- (1) Out of state laboratory, application:
 - (a) Tier 1 \$ 1,375
 - (b) Tier 2 \$ 2,200
 - (c) Tier 3 \$ 3,300
- (2) Out of state laboratory, fields of testing assessment:
 - (a) Basic assessment \$ 100
 - (b) Moderate assessment \$ 385
 - (c) Complex assessment \$ 550
- (3) Out of state laboratory, additional matrix:
 - (a) Basic \$ 11
 - (b) Moderate \$ 44
 - (c) Complex \$ 83
- (4) Biological tissue matrix:
 - (a) Out of state, moderate \$ 44
 - (b) Out of state, complex \$ 83
 - (c) In state, moderate \$ 40
 - (d) In state, complex \$ 75

SECTION 51. For the purpose of carrying out the provisions of ORS 291.055 (1)(e), the following new or increased fees, adopted by the Department of Veterans' Affairs and ap-

proved by the Oregon Department of Administrative Services, are approved for the conservatorship program:

- (1) Maintaining property:
 - (a) Real property management..... \$ 40
per hour
 - (b) Real property appraisal..... Actual cost
 - (c) Real property inspection..... \$ 50
per inspection
- (2) Representative payee fee: Four
percent of
value of
managed funds

SECTION 52. For the purpose of carrying out the provisions of ORS 291.055 (1)(e), the following new or increased fees, adopted by the Oregon Health Licensing Agency and approved by the Oregon Department of Administrative Services, are approved:

- (1) Board of Body Art Practitioners:
 - (a) Application:
 - (A) Application: practitioner..... \$ 50
 - (B) Application: facility..... \$ 100
 - (C) Application by reciprocity..... \$ 150
 - (b) Examination:
 - (A) Examination: practical..... \$ 100
 - (B) Examination: written..... \$ 50
 - (c) Original issuance of license:
 - (A) Original license \$ 50
 - (B) Original license: facility..... \$ 150
 - (d) License renewal:
 - (A) License renewal: BP training
license, dermal implant,
scarification, advanced
body piercing..... \$ 50
 - (B) License renewal: electrology..... \$ 25
 - (C) License renewal: facility \$ 150
 - (e) Online license renewal:
 - (A) Tattoo, dermal implant,
scarification, BP technician..... \$ 45
 - (B) Electrology, BP temporary
earlobe \$ 20
 - (C) Facility \$ 125
 - (f) Information packets..... \$ 10
- (2) Respiratory Therapist and
Polysomnographic Technologist
Licensing Board:
 - (a) Application \$ 50
 - (b) Original license \$ 50
 - (c) License renewal \$ 50
 - (d) Online license renewal..... \$ 45
 - (e) Examination - Oregon Laws
and rules \$ 50
 - (f) Information packets..... \$ 10
- (3) Nursing Home Administrators
Board:

(a) Application:		
(A) Application: original license.....	\$	100
(B) Application: provisional license	\$	50
(C) Application by reciprocity.....	\$	100
(b) Original issuance of license:		
(A) Original license - per year.....	\$	130
(B) Original license by reciprocity - for one year.....	\$	130
(c) Preceptor registration	\$	100
(d) License renewal - per year	\$	130
(e) Affidavit of licensure	\$	50
(f) Delinquency - per year, up to three years	\$	50
(g) Information packets.....	\$	10
(4) Board of Licensed Dietitians:		
(a) Original license - for one year..	\$	75
(b) License renewal - per year	\$	75
(5) State Board of Direct Entry Midwifery:		
(a) Original license	\$	1,200
(b) License renewal	\$	1,200

JUDICIAL DEPARTMENT

SECTION 53. Notwithstanding ORS 1.178 and 31.735, the amount of \$6,552,125 is transferred from the State Court Facilities and Security Account to the General Fund for general governmental purposes.

DEPARTMENT OF ENVIRONMENTAL QUALITY

SECTION 54. Notwithstanding ORS 468A.400, the amount of \$3,000,000 is transferred from the Department of Environmental Quality Motor Vehicle Pollution Account to the General Fund for general governmental purposes.

OREGON UNIVERSITY SYSTEM

SECTION 55. Notwithstanding any provision of section 2, chapter 788, Oregon Laws 2005, as amended by section 2, chapter 746, Oregon Laws 2007, section 149, chapter 783, Oregon Laws 2007, sections 2 and 2a, chapter 906, Oregon Laws 2009, and section 6, chapter 70, Oregon Laws 2010, for the biennium beginning July 1, 2011, the Oregon University System may use proceeds of lottery bonds issued pursuant to section 2, chapter 788, Oregon Laws 2005, as amended by section 2, chapter 746, Oregon Laws 2007, section 149, chapter 783, Oregon Laws 2007, sections 2 and 2a, chapter 906, Oregon Laws 2009, and section 6, chapter 70, Oregon Laws 2010, to pay debt service on lottery bonds.

JUDICIAL DEPARTMENT AND LEGISLATIVE ASSEMBLY

SECTION 56. (1) Any difference between the amount appropriated for a biennium to the judicial department as defined in ORS 174.113, including amounts appropriated to any agency of the judicial department, and the amount of the appropriation actually expended on or be-

fore the end of the biennium, is continuously appropriated to the judicial department for payment of expenses of the judicial department for the next biennium.

(2) Any difference between the amount appropriated for a biennium to the legislative department as defined in ORS 174.114, including amounts appropriated to any agency of the legislative department, and the amount of the appropriation actually expended on or before the end of the biennium, is continuously appropriated to the legislative department for payment of expenses of the legislative department for the next biennium.

SECTION 57. Section 56 of this 2012 Act first applies to any moneys remaining from appropriations made for the biennium ending June 30, 2011.

SECTION 58. ORS 293.190 is amended to read:

293.190. (1) On December 31 in each odd-numbered year, all General Fund appropriation balances as recorded on the records of the Oregon Department of Administrative Services for the prior biennium shall revert to the General Fund except for capital construction, continuing contracts, contested claims, special appropriations designated by legislative action, **appropriations described in section 56 of this 2012 Act** or savings continuously appropriated to agencies under ORS 291.120.

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

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

FINANCING AGREEMENTS

SECTION 59. ORS 182.460 is amended to read:

182.460. (1) Except as provided in subsections (2) and (3) of this section and as otherwise provided by law, the provisions of **ORS 283.085 to 283.092** and ORS chapters 240, 276, 279A, 279B, 279C, 282, 283, 291, 292 and 293 do not apply to a board. A board is subject to all other statutes governing a state agency that do not conflict with ORS 182.456 to 182.472, including the tort liability provisions of ORS 30.260 to 30.300 and the provisions of ORS chapter 183, and a board's employees are included within the Public Employees Retirement System.

(2) Notwithstanding subsection (1) of this section, the following provisions apply to a board:

- (a) ORS 240.309 (1) to (6) and 240.321;
- (b) ORS 279A.250 to 279A.290;
- (c) ORS 282.210 to 282.230; and
- (d) ORS 293.240.

(3) Notwithstanding subsection (1) of this section, ORS chapter 240 applies to the Oregon Board of Optometry, the State Board of Massage Therapists and the Physical Therapist Licensing Board.

(4) In carrying out the duties, functions and powers of a board, the board may contract with any state agency for the performance of duties, functions and powers as the board considers appropriate. A state agency may not charge a board an amount that exceeds the actual cost of those services. ORS 182.456 to 182.472 do not require an agency to provide services to a board other than pursuant to a voluntary interagency agreement or contract.

(5) A board shall adopt personnel policies and contracting and purchasing procedures. The Oregon Department of Administrative Services shall review those policies and procedures for compliance with applicable state and federal laws and collective bargaining contracts.

(6) Except as otherwise provided by law, directors and employees of a board are eligible to receive the same benefits as state employees and are entitled to retain their State of Oregon hire dates, transfer rights and job bidding rights, all without loss of seniority, and to the direct transfer of all accumulated state agency leaves.

SECTION 60. ORS 284.118 is amended to read:

284.118. (1) Except as provided in subsection (2) of this section, the provisions of ORS 200.035 [and], 279.835 to 279.855 **and 283.085 to 283.092** and ORS chapters 240, 276, 279A, 279B, 279C, 282, 283, 291, 292 and 293 do not apply to the Oregon Tourism Commission. The commission is subject to all other statutes governing a state agency that do not conflict with ORS 284.101 to 284.146, including the tort liability provisions of ORS 30.260 to 30.300 and the provisions of ORS chapter 183. The employees of the commission are included within the Public Employees Retirement System.

(2) Notwithstanding subsection (1) of this section, the following provisions apply to the commission:

(a) ORS 279A.250 to 279A.290;

(b) ORS 292.495; and

(c) ORS 293.235, 293.240, 293.245, 293.250, 293.611, 293.625 and 293.630.

(3) In carrying out the duties, functions and powers of the commission, the commission may contract with any state agency for the performance of duties, functions and powers as the commission considers appropriate. A state agency may not charge the commission an amount that exceeds the actual cost of those services. ORS 284.101 to 284.146 do not require a state agency to provide services to the commission other than pursuant to a voluntary interagency agreement or contract.

(4) The commission shall adopt personnel policies and contracting and purchasing procedures. The Oregon Department of Administrative Services shall review those policies and procedures for compliance with applicable state and federal laws and collective bargaining contracts.

(5) Except as otherwise provided by law, members and employees of the commission are eligible to receive the same benefits as state employees and are entitled to retain their State of Oregon hire dates, transfer rights and job bidding rights, all without loss of seniority, and to the direct transfer of all accumulated state agency leaves.

SECTION 61. ORS 284.375 is amended to read:

284.375. (1) Except as otherwise provided by law, ORS 279.835 to 279.855 **and 283.085 to 283.092** and ORS chapters 240, 276, 279A, 279B, 279C, 282, 283, 291, 292 and 293 do not apply to the Oregon Film and Video Office.

(2) Notwithstanding subsection (1) of this section, ORS 279A.100, 279A.250 to 279A.290, 282.210 to 282.230, 293.235, 293.240, 293.245, 293.260, 293.262, 293.611, 293.625 and 293.630 apply to the Oregon Film and Video Office.

SECTION 62. ORS 353.100 is amended to read:

353.100. (1) The provisions of ORS chapters 35, 190, 192, 244 and 295 and ORS 30.260 to 30.460, 200.005 to 200.025, 200.045 to 200.090, 236.605 to 236.640, 243.650 to 243.782, 297.040, 307.090 and 307.112 apply to Oregon Health and Science University under the same terms as they apply to public bodies other than the state.

(2) Except as otherwise provided by law, the provisions of ORS chapters 182, 183, 240, 270, 273, 276, 279A, 279B, 279C, 283, 291, 292, 293, 294 and 297 and ORS 35.550 to 35.575, 180.060, 180.210 to 180.235, 183.710 to 183.725, 183.745, 183.750, 184.305 to 184.345, 190.430, 190.480, 190.490, 192.105, 200.035, 243.105 to 243.585, 243.696, 278.011 to 278.120, 278.315 to 278.415, 279.835 to 279.855, 282.010 to 282.150, **283.085 to 283.092**, 357.805 to 357.895 and 656.017 (2) do not apply to the university or any not-for-profit organization or other entity if the equity of the entity is owned exclusively by the university and if the organization or entity is created by the university to advance any of the university's statutory missions.

(3) The university, as a distinct governmental entity, or any organization or entity described in subsection (2) of this section is not subject to any provision of law enacted after January 1, 1995, with respect to any governmental entity, unless the provision specifically provides that it applies to the university or to the organization or entity.

SECTION 63. ORS 377.836 is amended to read:

377.836. (1) Except as otherwise provided by law, and except as provided in subsection (2) of this section, the provisions of ORS 279.835 to 279.855 **and 283.085 to 283.092** and ORS chapters 240, 276, 279A, 279B, 279C, 282, 283, 291, 292 and 293 do not apply to the Travel Information Council. The

council is subject to all other statutes governing a state agency that do not conflict with ORS 377.700 to 377.840, including the tort liability provisions of ORS 30.260 to 30.300 and the provisions of ORS chapter 183. Subject to the requirements of ORS chapters 238 and 238A, the council's employees are members of the Public Employees Retirement System.

(2) The following shall apply to the council:

(a) ORS 279A.250 to 279A.290;

(b) ORS 282.210 to 282.230; and

(c) ORS 293.235, 293.240, 293.245, 293.611, 293.625 and 293.630.

SECTION 64. ORS 421.352 is amended to read:

421.352. (1) The provisions of ORS chapters 182, 183, 240, 270, 273, 276, 279A, 279B, 279C, 283, 291, 292 and 293 and ORS 35.550 to 35.575, 183.710 to 183.725, 183.745, 183.750, 184.345, 190.430, 190.490, 200.035, 236.605 to 236.640, 243.303, 243.305, 243.315, 243.325 to 243.335, 243.345, 243.350, 243.696, 279.835 to 279.855, 282.010 to 282.150, **283.085 to 283.092** and 656.017 (2) do not apply to Oregon Corrections Enterprises.

(2) Oregon Corrections Enterprises is not subject to any provision of law enacted after December 2, 1999, that governs state agencies generally unless the provision specifically provides that it applies to Oregon Corrections Enterprises.

SECTION 65. ORS 461.120 is amended to read:

461.120. (1)(a) Except as otherwise provided by law, the provisions of ORS 279.835 to 279.855 and ORS chapters 279A, 279B, 279C, 282 and 283 do not apply to the Oregon State Lottery Commission unless otherwise provided by this chapter.

(b) Officers and employees of the Oregon State Lottery Commission are in the exempt service for purposes of ORS chapter 240 and other related statutes.

(c) ORS 276.004 (2), 276.021, 276.093 to 276.098, 276.410 to 276.426, 276.428, 276.440, **283.085 to 283.092**, 291.038, 291.201 to 291.260 and 292.210 to 292.250 do not apply to the Oregon State Lottery Commission.

(d) ORS 293.075, 293.190, 293.205 to 293.225 and 293.275 do not apply to the Oregon State Lottery Commission.

(e) ORS 279A.100 and ORS chapters 659 and 659A apply to the Oregon State Lottery Commission.

(f) Notwithstanding paragraph (a) of this subsection, the provisions of ORS 282.210 shall apply to the Oregon State Lottery Commission.

(2) The commission shall, in accordance with ORS chapter 183, adopt and enforce rules to carry out the provisions of this chapter.

SECTION 66. ORS 576.306 is amended to read:

576.306. (1) A commodity commission may contract with an independent contractor for the performance of any services. However, the commission may not contract with an independent contractor to perform the discretionary functions of the commission. ORS 279.835 to 279.855 and ORS chapters 240, 279A, 279B and 279C do not apply to the commission in obtaining such services, except that *[no contract for such services shall]* **a contract for such services may not** take effect until approved by the State Department of Agriculture as provided in subsection (7) of this section.

(2) The commission may rent space or acquire supplies and equipment from any contractor as described in subsection (1) of this section. ORS chapters 276, 278, 279A, 279B, 279C and 283 and ORS 279.835 to 279.855, **283.085 to 283.092** and 291.038 do not apply to such rentals or acquisitions.

(3) Except as provided in this section, a contractor described in subsection (1) of this section shall be considered an independent contractor and not an employee, eligible employee, public employee or employee of the state for purposes of Oregon law, including ORS chapters 236, 238, 238A, 240, 243, 291, 292, 316 and 652.

(4) Nothing in this section precludes the state or a commission from being considered the employer of the contractor described in subsection (1) of this section for purposes of unemployment compensation under ORS chapter 657 and ORS 670.600.

(5) A contractor described in subsection (1) of this section shall be considered an independent contractor and not a worker for purposes of ORS chapter 656 and ORS 670.600.

(6) A contractor described in subsection (1) of this section may not be considered a public official, public officer, state officer or executive official for purposes of Oregon law, including ORS chapters 236, 244, 292, 295 and 297 and ORS 171.725 to 171.785.

(7) The State Department of Agriculture shall review the contract described in subsection (1) of this section for the adequacy of the clauses pertaining to statement of work, starting and ending dates, consideration, subcontracts, funds authorized in the budget, amendments, termination, compliance with applicable law, assignment and waiver, access to records, indemnity, ownership of work product, nondiscrimination, successors in interest, attorney fees, tax certification or merger or any other clause the department deems necessary.

(8) The Oregon Department of Administrative Services, in consultation with the State Department of Agriculture, shall adopt rules necessary for the screening and selection of independent contractors under this section.

(9) Except as provided in subsection (8) of this section, the State Department of Agriculture may promulgate any rules necessary for the administration and enforcement of this section.

SECTION 67. ORS 656.753 is amended to read:

656.753. (1) Except as otherwise provided by law, the provisions of ORS 279.835 to 279.855 **and 283.085 to 283.092** and ORS chapters 240, 276, 279A, 279B, 279C, 282, 283, 291, 292 and 293 do not apply to the State Accident Insurance Fund Corporation.

(2) In carrying out the duties, functions and powers imposed by law upon the State Accident Insurance Fund Corporation, the board of directors or the manager of the State Accident Insurance Fund Corporation may contract with any state agency for the performance of such duties, functions and powers as the corporation considers appropriate.

(3) Notwithstanding subsection (1) or (2) of this section, ORS 293.240 except for appeals pursuant to ORS 737.318, ORS 293.260, 293.262 and 293.505 (2) shall apply to the directors, manager, assistants and accounts of the State Accident Insurance Fund Corporation and any subsidiary corporation formed or acquired by the State Accident Insurance Fund Corporation.

(4) Notwithstanding subsection (1) or (2) of this section, ORS 243.305, 279A.100 and 659A.012 apply to the directors, manager and employees of the State Accident Insurance Fund Corporation.

SECTION 68. ORS 741.250 is amended to read:

741.250. (1) Except as otherwise provided by law, the provisions of ORS 279.835 to 279.855 **and 283.085 to 283.092** and ORS chapters 240, 276, 279A, 279B, 279C, 282, 283, 291, 292 and 293 do not apply to the Oregon Health Insurance Exchange Corporation.

(2) In carrying out the duties, functions and powers imposed by law upon the corporation, the corporation board of directors or the executive director of the corporation may contract with any state agency or other qualified person or entity for the performance of such duties, functions and powers as the board or executive director considers appropriate.

(3) ORS 30.210 to 30.250, 30.260 to 30.300, 30.310, 30.312, 30.390 and 30.400 apply to the members of the board, the executive director and employees of the corporation.

(4) Notwithstanding subsection (1) of this section, ORS [293.235,] 293.240[, 293.245, 293.260, 293.262, 293.611, 293.625 and 293.630 apply] **applies** to the accounts of the corporation.

(5) Notwithstanding subsections (1) and (2) of this section, ORS 243.305, 279A.100 and 659A.012 apply to the members of the board, executive director and employees of the corporation.

SECTION 69. ORS 757.552 is amended to read:

757.552. (1) It is the function of the board of directors to operate the Oregon Utility Notification Center, through which a person shall notify operators of underground facilities of proposed excavations and request that the underground facilities be marked.

(2) The board of directors shall:

(a) Utilize a competitive process to contract with any qualified person to provide the notification required under subsection (1) of this section.

(b) Subject to subsection (3) of this section, establish rates, on a per call basis, under which subscribers shall pay to fund all of the activities of the Oregon Utility Notification Center.

(c) Adopt rules according to ORS chapter 183 that regulate the notification and marking of underground facilities to prevent damage to underground facilities. The rules, insofar as is practicable, shall be consistent with the Oregon Utilities Coordinating Council Standards Manual of March 31, 1995.

(3) The Oregon Utility Notification Center shall have all of the powers of a state agency. Except as provided in subsection (2) of this section, the provisions of ORS 279.835 to 279.855 **and 283.085 to 283.092** and ORS chapters 240, 276, 279A, 279B, 279C, 282, 283, 291, 292 and 293 *[shall]* **do not** apply to the Oregon Utility Notification Center.

(4) Notwithstanding subsection (2)(b) of this section, the board of directors shall not establish rates or other charges that require payments from any subscriber who receives fewer than 50 telephone calls in the calendar year or that result in annual payments of more than \$500 for any of the following subscribers:

(a) Cities with a population under 15,000;

(b) Telecommunications utilities serving fewer than 50,000 access lines and regulated by the Public Utility Commission under ORS chapter 759;

(c) Cable system operators serving fewer than 15,000 customers;

(d) Utilities, special districts, people's utility districts or authorities providing electricity, water or sanitary sewer service to fewer than 15,000 residential customers; and

(e) Telecommunications cooperatives.

SECTION 70. ORS 757.822 is amended to read:

757.822. (1) Except as provided in subsection (2) of this section, the provisions of ORS chapters 35 *[(, other than ORS 35.550 to 35.575)],* 180, 190, 192 and 244 and ORS 30.260 to 30.460, 200.005 to 200.025, 200.045 to 200.090, 221.450, 236.605 to 236.640, 243.650 to 243.782 *[(, other than [ORS] 243.696)],* 297.040, 307.090 and 307.112 apply to Oregon Community Power under the same terms as they apply to any other subdivision of state government.

(2) Except as otherwise provided by law, the provisions of ORS chapters 182, 183, 238, 238A, 240, 270, 273, 276, 279A, 279B, 279C, 283, 286A, 291, 292, 293, 294, 295 and 297 and ORS 35.550 to 35.575, 183.710 to 183.725, 183.745, 183.750, 184.305 to 184.345, 190.430, 190.480, 190.490, 192.105, 200.035, 243.105 to 243.585, 243.696, 278.011 to 278.120, 278.315 to 278.415, 279.835 to 279.855, 282.010 to 282.150, **283.085 to 283.092**, 287A.140, 287A.150, 287A.472 and 656.017 (2) do not apply to Oregon Community Power.

(3) Oregon Community Power is not a participating public employer in the Public Employees Retirement System.

(4) Any funds held by or under the control of Oregon Community Power are not public funds, as defined in ORS 295.001.

SECTION 71. ORS 774.190 is amended to read:

774.190. (1) ORS 279.835 to 279.855 **and 283.085 to 283.092** and ORS chapters 278, 279A, 279B, 279C, 282, 283, 291, 292, 293, 295 and 297 do not apply to Citizens' Utility Board or to the administration and enforcement of this chapter. An employee of Citizens' Utility Board *[shall not be]* **is not** considered an "employee" as the term is defined in the public employees retirement laws. Citizens' Utility Board and its employees *[shall be]* **are** exempt from the provisions of the State Personnel Relations Law.

(2) ORS chapter 183 does not apply to determinations and actions by the board.

(3) The board, and any of the officers, employees, agents or members of Citizens' Utility Board shall be provided the same protections from liability as the board, officers, employees, agents, or members of any nonprofit corporation of the State of Oregon.

DEPARTMENT OF JUSTICE

SECTION 72. Notwithstanding ORS 180.095, 180.096, 646.775 and 646A.284, the amount of \$4,000,000 is transferred from the Department of Justice Protection and Education Revolving Account to the General Fund for general governmental purposes.

PUBLIC BODY INSURANCE

SECTION 73. Notwithstanding ORS 30.282, 30.285, 278.425, 655.515 and 655.540, the amount of \$13,300,000 is transferred from the Insurance Fund to the General Fund for general governmental purposes. The transfer shall be made not later than June 30, 2012.

CONCILIATION AND MEDIATION SERVICES, LAW LIBRARY SERVICES AND COURT FACILITIES

SECTION 74. (1) Notwithstanding sections 1 (1) and 2 (1), chapter 628, Oregon Laws 2011, amounts distributed to counties under sections 1 (2) and 2 (2), chapter 628, Oregon Laws 2011, may be used for:

(a) Conciliation and mediation services in circuit courts; or

(b) The operation of law libraries or the provision of law library services.

(2) The governing body of the county may determine the amount to be spent on each of the two purposes specified in subsection (1) of this section from the amounts distributed to counties under sections 1 (2) and 2 (2), chapter 628, Oregon Laws 2011.

(3) The provisions of this section apply only to counties containing less than 400,000 inhabitants, according to the latest federal decennial census.

SECTION 74a. (1) Notwithstanding section 2 (1), chapter 628, Oregon Laws 2011, of the amounts distributed to a county under section 2 (2), chapter 628, Oregon Laws 2011, the county may expend not more than \$716,000 for capital outlays for court facilities.

(2) Notwithstanding sections 1 (1) and 2 (1), chapter 628, Oregon Laws 2011, the amounts that remain after any expenditure under subsection (1) of this section from the distributions to a county under sections 1 (2) and 2 (2), chapter 628, Oregon Laws 2011, may be used for:

(a) Conciliation and mediation services in circuit courts; or

(b) The operation of law libraries or the provision of law library services.

(3) The governing body of the county may determine the amount to be spent on each of the two purposes specified in subsection (2) of this section from the amounts that remain after any expenditure under subsection (1) of this section from the distributions to a county under sections 1 (2) and 2 (2), chapter 628, Oregon Laws 2011.

(4) The provisions of this section apply only to counties containing more than 400,000 inhabitants, according to the latest federal decennial census.

STATE COURT SECURITY, EMERGENCY PREPAREDNESS AND BUSINESS CONTINUITY

SECTION 75. ORS 1.177 is amended to read:

1.177. [(1) *The Chief Justice of the Supreme Court may appoint an Advisory Committee on State Court Security and Emergency Preparedness for the Supreme Court, Court of Appeals, Oregon Tax Court and office of the State Court Administrator.*]

[(2) *A committee appointed under this section shall meet at the call of the Chief Justice.*]

[(3) *A committee appointed under this section shall submit to the Chief Justice a state plan for state court security improvement, emergency preparedness and business continuity for each building containing or utilized by the Supreme Court, Court of Appeals, Oregon Tax Court or office of the State Court Administrator. The plan shall include capital outlay needs and may include recommendations concerning:*]

[(a) Procedures for the secure handling, transportation and disposal of hazardous substances and contraband in court proceedings;]

[(b) Emergency alarm systems accessible to all court employees;]

[(c) Physical security for judges, staff and the public;]

[(d) Procedures for emergency evacuation of buildings containing or utilized by the Supreme Court, Court of Appeals, Oregon Tax Court or office of the State Court Administrator;]

[(e) Procedures for identifying court security personnel, including a court security officer to be appointed by the Chief Justice, who shall be responsible for:]

[(A) The management of the plan;]

[(B) A regular security inspection of each building containing or utilized by the Supreme Court, Court of Appeals, Oregon Tax Court or office of the State Court Administrator; and]

[(C) Regular security training of sheriff's department, judicial department and district attorney personnel; and]

[(f) Priorities for available court facilities within the building based on the level of security needed.]

[(4) The plan may also include:]

[(a) An evaluation of how each of the items listed in subsection (3) of this section is being addressed and should be addressed;]

[(b) How practices, facilities and equipment falling below appropriate levels are to be improved;]

[(c) The anticipated cost of improving practices, facilities and equipment that fall below appropriate levels;]

[(d) The funding source for each improvement; and]

[(e) The time schedule for implementation of improvements.]

[(5) Adoption of a plan under this section is subject to the approval of the Chief Justice. The plan may conclude that state court facility security is adequate.]

[(6) Implementation of the elements of a plan that have a significant fiscal impact are subject to availability of funding.]

[(7) The plan adopted under this section shall be reviewed and revised or amended as needed, not later than June 30 of each odd-numbered year.]

(1) The Chief Justice of the Supreme Court may adopt state standards, and a state plan, for state court security, emergency preparedness and business continuity for facilities used by judges or staff of a circuit court, the Supreme Court, Court of Appeals or Oregon Tax Court or the office of the State Court Administrator.

(2) The Chief Justice may appoint a judicial security officer and other judicial security personnel charged with implementing a state plan adopted under subsection (1) of this section.

*[(8)] (3) Except as provided in this subsection, a plan [prepared] **adopted** under this section [is] **and all documents related to development of the plan are** confidential and need not be disclosed under the provisions of ORS 192.410 to 192.505. The Chief Justice may authorize the disclosure of all or part of a plan prepared under this section if the Chief Justice determines that the interest of the public would be served by the disclosure and that the disclosure will not impair the integrity of the plan. Records of expenditures for a state court security plan and records of equipment purchased under the plan are not confidential under the provisions of this subsection, and are subject to disclosure as public records under the provisions of ORS 192.410 to 192.505.*

SECTION 76. ORS 1.178 is amended to read:

1.178. (1) The State Court Facilities and Security Account is established separate and distinct from the General Fund. The account consists of moneys allocated to the account under the provisions of ORS 137.300. *[Interest earned by the State Court Facilities and Security Account shall be credited to the account.]* Moneys in the account are continuously appropriated to the State Court Administrator for the purposes described in subsection (2) of this section.

(2) Expenditures by the State Court Administrator from the State Court Facilities and Security Account shall be made only for the following purposes:

(a) Developing or implementing [a] **the** plan for state court security [*improvement*], emergency preparedness and business continuity **adopted** under ORS 1.177. **Expenditures under this paragraph may not be used to fund positions in the judicial department.**

(b) Statewide training on state court security.

(c) Distributions to court facilities security accounts maintained under ORS 1.182.

(d) Capital improvements for courthouses and other state court facilities.

SECTION 77. The amendments to ORS 1.178 by section 76 of this 2012 Act become operative July 1, 2013.

SECTION 78. Section 61a, chapter 597, Oregon Laws 2011, is amended to read:

Sec. 61a. *[(1) During the biennium beginning July 1, 2011, the State Court Administrator may expend not more than \$2,862,376 from the State Court Facilities and Security Account for the purposes of:]*

[(a) Developing or implementing a plan for state court security improvement, emergency preparedness and business continuity under ORS 1.177.]

[(b) Statewide training on state court security.]

[(2)] During the biennium beginning July 1, 2011, the State Court Administrator may distribute not more than \$4,701,919 from the State Court Facilities and Security Account to court facilities security accounts maintained under ORS 1.182. The distribution to each county shall be based on amounts deposited in the Criminal Fine and Assessment Account by the circuit court for the county in the 2009-2011 biennium.

[(3) Notwithstanding ORS 1.178 (2)(d), during the biennium beginning July 1, 2011, the State Court Administrator may not expend any funds from the State Court Facilities and Security Account for the purpose of capital improvements for courthouses and other state court facilities.]

JUDICIAL BRANCH COMPENSATION CHANGES

SECTION 79. (1) Before making any change to a compensation plan, an administrative division of the judicial department must submit the proposed change to the Joint Committee on Ways and Means during the period when the Legislative Assembly is in session, or to the Emergency Board or the Joint Interim Committee on Ways and Means during the interim period between sessions.

(2) This section applies to all boards, commissions, committees and departments of the judicial department, as defined in ORS 174.113, including but not limited to the Public Defense Services Commission and the Commission on Judicial Fitness and Disability.

HUMAN SERVICES

SECTION 80. ORS 412.079 is amended to read:

412.079. (1) Except as provided in subsections (2) and (3) of this section, a needy caretaker relative may not receive aid under ORS 412.006 **if the needy caretaker relative has received aid under the temporary assistance for needy families program in this state or any other state** for more than a total of 60 months.

(2) The Department of Human Services may not count toward the 60-month limit on receipt of aid described in subsection (1) of this section any month in which a needy caretaker relative:

(a) Receives a grant of temporary assistance for needy families under ORS 412.001 to 412.069, or assistance funded under Title IV-A of the Social Security Act in this or another state, prior to July 1, 2003;

(b) Resides in an area described in 18 U.S.C. 1151, and 50 percent or more of the adult residents in the area are unemployed;

(c) Is, in that month, a minor child and neither the head of the household nor married to the head of the household;

(d) Receives aid under ORS [412.001 to 412.155 that is not funded with grants under Title IV-A of the Social Security Act] **411.878, 412.014 or 412.124;**

(e) Is enrolled at an educational institution under ORS 412.016;

(f) Is exempt from time limits pursuant to rules adopted by the department in accordance with section 408(a)(7)(C) of the Social Security Act; or

(g) Is unable to obtain or maintain employment for a sufficient number of hours in a month to satisfy the federally required participation rates because the needy caretaker relative:

(A) Is a victim of domestic violence as defined in ORS 411.117;

(B) Has a certified learning disability;

(C) Has a mental health condition or an alcohol or drug abuse problem;

(D) Has a disability as defined by the department by rule in a manner consistent with the definition of disability in the Americans with Disabilities Act;

(E) Has a child with a disability;

(F) Is deprived of needed medical care; or

(G) Is subjected to battery or extreme cruelty as defined by the department by rule.

(3) A needy caretaker relative may not be denied aid **or terminated from receiving aid** on the basis of the 60-month limitation described in subsection (1) of this section if the individual is experiencing a situation described in subsection (2) of this section.

(4)(a) The Department of Human Services shall monitor the average period of time a [person] **family** receives aid and shall record such information by family size. The department shall monitor the wages and benefits received by an individual who becomes employed while receiving aid, including medical and child care benefits. The department shall monitor and record the rate at which [persons] **families** who cease receiving aid for employment subsequently apply for and receive aid.

(b) The department shall report the results of the monitoring required under paragraph (a) of this subsection to the Legislative Assembly not later than the 15th day of each odd-numbered year regular session.

SECTION 81. Section 83, chapter 630, Oregon Laws 2011, is amended to read:

Sec. 83. (1) Notwithstanding ORS 412.124, for the [biennium] **period** beginning July 1, 2011, **and ending April 30, 2012**, the Department of Human Services may provide aid described in ORS 412.124 subject to available funding as approved in the legislatively adopted or legislatively approved budget for the department.

(2) The department may not provide aid described in ORS 412.124 for the period beginning May 1, 2012, and ending June 30, 2013.

[(2)] **(3)** As used in this section:

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

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

SECTION 82. Section 1, chapter 604, Oregon Laws 2011, is amended to read:

Sec. 1. For the biennium beginning July 1, 2011, the Department of Human Services may, notwithstanding ORS 411.070, 412.006, 412.009 and 412.016:

(1) Prescribe by rule an employability assessment and orientation process that the department shall use to determine the level of participation by individuals applying for or receiving aid pursuant to the temporary assistance for needy families program and required to participate in the job opportunity and basic skills program described in ORS 412.006. This process must occur prior to any assessment described in ORS 412.006 (3) that is conducted by the department.

(2) Require all families to participate in the employability assessment and orientation process as a condition for the family's receipt of aid.

(3) Determine the selection and placement in the job opportunity and basic skills program activities of existing and future applicants and recipients of aid based on the results of the employability assessment or other criteria.

(4) Require an individual in a one-parent family to participate in the job opportunity and basic skills program while caring for a dependent child who is under two years of age.

(5) Not approve enrollment in and attendance at an educational institution as an allowable work activity for purposes of ORS 412.001 to 412.069, except for recipients who have a case plan in effect on June 30, 2011, that approves enrollment in and attendance at an educational institution as an allowable work activity under ORS 412.016.

(6) Deny **or terminate** aid to a family in which a caretaker relative is separated from employment without good cause [during the 60-day period ending on the date of application for aid], subject to exceptions prescribed by the department by rule. **The family shall be ineligible to receive aid for a period of 120 days beginning on the date the caretaker relative is separated from employment without good cause.**

(7) Establish an income eligibility limit equal to 185 percent of the federal poverty guidelines for aid to a dependent child residing with a caretaker relative who is not the child's parent.

(8) Deny employment-related day care assistance to a parent who is self-employed.

(9) Eliminate the reduced copayment required for employment-related day care assistance in the first month of employment.

SECTION 83. Section 19, chapter 827, Oregon Laws 2009, as amended by section 84, chapter 630, Oregon Laws 2011, is amended to read:

Sec. 19. Notwithstanding section 24, chapter 736, Oregon Laws 2003[,]:

(1) For the [biennium] **period beginning July 1, 2011, and ending March 31, 2013**, the Department of Human Services may limit reimbursement paid to Medicaid-certified long term care facilities to the rates in effect on June 30, 2011, in accordance with the legislatively adopted budget.

(2) **For the period beginning April 1, 2013, and ending June 30, 2013, the department may limit reimbursement paid to Medicaid-certified long term care facilities to rates equal to or below the rates in effect on June 30, 2011, in accordance with the legislatively approved budget, as defined in ORS 291.002.**

SMALL SCHOOL DISTRICTS

SECTION 84. Section 19, chapter 846, Oregon Laws 2007, is amended to read:

Sec. 19. The amendments to ORS 327.006, 327.008, 327.019, 327.125, 327.137, 339.129 and 340.045 by sections 11 to 17 [of this 2007 Act], **chapter 846, Oregon Laws 2007**, and the repeal of ORS 327.355, 327.357 and 327.360 by section 18 [of this 2007 Act], **chapter 846, Oregon Laws 2007**, become operative on June 30, [2012] **2013**.

SECTION 85. Section 3, chapter 302, Oregon Laws 2011, is amended to read:

Sec. 3. The amendments to ORS 329.488 by section 2 [of this 2011 Act], **chapter 302, Oregon Laws 2011**, become operative June 30, [2012] **2013**.

LOCAL COURT REPORTS

SECTION 86. (1) **Once every two years, the League of Oregon Cities and the Association of Oregon Counties shall report to the Legislative Fiscal Officer information identified by the Legislative Fiscal Officer relating to the caseload, revenues and expenditures of municipal courts and justice courts. Before establishing the list of information to be provided, the Legislative Fiscal Officer shall consult with the League of Oregon Cities and the Association of Oregon Counties. The Legislative Fiscal Officer may not request information that requires additional data gathering by municipal courts, justice courts, cities and counties. The reported information shall be based on the fiscal year used by each municipal court and justice court.**

(2) **The reports required by this section must be made not later than October 1 of each even-numbered year. The Legislative Fiscal Officer may specify the manner in which the reports are made. The Legislative Fiscal Officer shall provide a summary of the information provided under this section to the Joint Committee on Ways and Means upon the convening of the next odd-numbered year regular session of the Legislative Assembly. Copies of the**

summary shall be provided to the League of Oregon Cities and the Association of Oregon Counties.

SECTION 87. The first report under section 86 of this 2012 Act must be made not later than October 1, 2012.

OREGON HEALTH INSURANCE EXCHANGE CORPORATION

SECTION 88. ORS 741.002 is amended to read:

741.002. (1) The duties of the Oregon Health Insurance Exchange Corporation are to:

(a) Administer a health insurance exchange in accordance with federal law to make qualified health plans available to individuals and groups throughout this state.

(b) Provide information in writing, through an Internet-based clearinghouse and through a toll-free telephone line that will assist individuals and small businesses in making informed health insurance decisions, including:

(A) The grade of each health plan as determined by the corporation and the grading criteria that were used;

(B) Quality and enrollee satisfaction ratings; and

(C) The comparative costs, benefits, provider networks of health plans and other useful information.

(c) Establish and make available an electronic calculator that allows individuals and employers to determine the cost of coverage after deducting any applicable tax credits or cost-sharing reduction.

(d) Using procedures approved by the corporation's board of directors and adopted by rule by the corporation under ORS 741.310, screen, certify and recertify health plans as qualified health plans according to federal and state standards and ensure that qualified health plans provide choices of coverage.

(e) Decertify or suspend, in accordance with ORS chapter 183, the certification of health plans that fail to meet federal and state standards in order to exclude them from participation in the exchange.

(f) Promote fair competition of carriers participating in the exchange by certifying multiple health plans as qualified under ORS 741.310.

(g) Grade health plans in accordance with criteria established by the United States Secretary of Health and Human Services and by the corporation.

(h) Establish open and special enrollment periods for all enrollees, and monthly enrollment periods for Native Americans in accordance with federal law.

(i) Assist individuals and groups to enroll in qualified health plans, including defined contribution plans as defined in section 414 of the Internal Revenue Code and, if appropriate, collect and remit premiums for such individuals or groups.

(j) Facilitate community-based assistance with enrollment in qualified health plans by awarding grants to entities that are certified as navigators as described in 42 U.S.C. 18031(i).

(k) Provide information to individuals and employers regarding the eligibility requirements for state medical assistance programs and assist eligible individuals and families in applying for and enrolling in the programs.

(L) Provide employers with the names of employees who end coverage under a qualified health plan during a plan year.

(m) Certify the eligibility of an individual for an exemption from the individual responsibility requirement of section 5000A of the Internal Revenue Code.

(n) Provide information to the federal government necessary for individuals who are enrolled in qualified health plans through the exchange to receive tax credits and reduced cost-sharing.

(o) Provide to the federal government:

(A) Information regarding individuals determined to be exempt from the individual responsibility requirement of section 5000A of the Internal Revenue Code;

- (B) Information regarding employees who have reported a change in employer;
- (C) Information regarding individuals who have ended coverage during a plan year; and
- (D) Any other information necessary to comply with federal requirements.
- (p) Take any other actions necessary and appropriate to comply with the federal requirements for a health insurance exchange.
- (q) Work in coordination with the Oregon Health Authority, the Oregon Health Policy Board and the Department of Consumer and Business Services in carrying out its duties.
- (2) The corporation may sue and be sued.
- (3) The corporation may:
 - (a) Acquire, lease, rent, own and manage real property.
 - (b) Construct, equip and furnish buildings or other structures as are necessary to accommodate the needs of the corporation.
 - (c) Purchase, rent, lease or otherwise acquire for the corporation's use all supplies, materials, equipment and services necessary to carry out the corporation's duties.
 - (d) Sell or otherwise dispose of any property acquired under this subsection.
 - (e) Borrow money and give guarantees to finance its facilities and operations.**
- (4) Any real property acquired and owned by the corporation under this section shall be subject to ad valorem taxation.
- (5) The corporation may not borrow money or give guarantees under subsection (3)(e) of this section unless the obligations of the corporation are payable solely out of the corporation's own resources and do not constitute a pledge of the full faith and credit of the State of Oregon or any of the revenues of this state. The State Treasurer and the State of Oregon may not pay bond-related costs for an obligation incurred by the corporation. A holder of an obligation incurred by the corporation does not have the right to compel the exercise of the taxing power of the state to pay bond-related costs.**

[(5)] (6) The corporation may adopt rules necessary to carry out its mission, duties and functions.

SECTION 89. ORS 741.101 is amended to read:

741.101. *[The Oregon Health Insurance Exchange Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Oregon Health Insurance Exchange Fund shall be credited to the fund. The Oregon Health Insurance Exchange Fund consists of moneys received by the Oregon Health Insurance Exchange Corporation through premiums or the imposition of fees under ORS 741.105 and moneys received as grants under ORS 741.310. Moneys in the fund are continuously appropriated to the Oregon Health Insurance Exchange Corporation for carrying out the purposes of ORS 741.001 to 741.540.]*

(1) As used in this section, "depository" has the meaning given that term in ORS 295.001.

(2) The Oregon Health Insurance Exchange Corporation shall establish one or more accounts in one or more depositories insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund. In a manner consistent with the requirements of ORS 295.001 to 295.108, the corporation shall ensure that sufficient collateral secures any amount of funds on deposit that exceeds the limits of the coverage of the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund. All moneys collected or received by the corporation or placed to the credit of the corporation that are not invested under ORS 741.105 must be deposited to the accounts established under this section, including, but not limited to, moneys received by the corporation through premiums or the imposition of fees under ORS 741.105 and moneys received as grants under ORS 741.310.

SECTION 90. All moneys remaining unexpended in the Oregon Health Insurance Exchange Fund on the effective date of this 2012 Act shall be deposited to an account established by the Oregon Health Insurance Exchange Corporation under ORS 741.101.

SECTION 91. ORS 741.105 is amended to read:

741.105. (1) The Oregon Health Insurance Exchange Corporation board of directors shall establish, and the corporation shall impose and collect, an administrative charge from all insurers and state programs participating in the health insurance exchange in an amount sufficient to cover the costs of grants to navigators certified under ORS 741.002 and to pay the administrative and operational expenses of the corporation in carrying out ORS 741.001 to 741.540. The charge shall be paid in a manner and at intervals prescribed by the board and shall be deposited in [*the Oregon Health Insurance Exchange Fund*] **an account** established in ORS 741.101.

(2) Each insurer's charge shall be based on the number of individuals, excluding individuals enrolled in state programs, who are enrolled in health plans offered by the insurer through the exchange. The assessment on each state program shall be based on the number of individuals enrolled in state programs offered through the exchange. The charge may not exceed:

(a) Five percent of the premium or other monthly charge for each enrollee if the number of enrollees receiving coverage through the exchange is at or below 175,000;

(b) Four percent of the premium or other monthly charge for each enrollee if the number of enrollees receiving coverage through the exchange is above 175,000 and at or below 300,000; and

(c) Three percent of the premium or other monthly charge for each enrollee if the number of enrollees receiving coverage through the exchange is above 300,000.

(3)(a) If charges collected under subsection (1) of this section exceed the amounts needed for the administrative and operational expenses of the corporation, the excess moneys collected [*shall*] **may** be held and invested and, with the earnings and interest, used by the corporation to offset future net losses or reduce the administrative costs of the corporation.

(b) Investments made by the corporation under this subsection are:

(A) Limited to investments described in ORS 294.035;

(B) Subject to the investment maturity date limitations described in ORS 294.135; and

(C) Subject to the conduct prohibitions listed in ORS 294.145.

(c) The maximum amount of excess moneys that may be held under this subsection is the total administrative and operational expenses anticipated by the corporation for a six-month period. Any moneys received that exceed the maximum shall be applied by the corporation to reduce the charges imposed by this section.

(4) Charges shall be based on annual statements and other reports deemed necessary by the corporation and filed by an insurer or state program with the exchange.

(5) In addition to charges imposed under subsection (1) of this section, to the extent permitted by federal law the corporation may impose a fee on insurers and state programs participating in the exchange to cover the cost of commissions of insurance producers that are certified by the corporation to facilitate the participation of individuals and employers in the exchange.

(6) The board shall establish the charges and fees under this section in accordance with ORS 183.310 to 183.410 and in such a manner that will reasonably and substantially accomplish the objective of subsections (1) and (5) of this section.

SECTION 92. ORS 741.201 is amended to read:

741.201. (1) The Oregon Health Insurance Exchange Corporation is under the supervision of an executive director appointed by the corporation board of directors. The executive director serves at the pleasure of the board. The executive director shall be paid a salary as prescribed by the board.

(2) Before assuming the duties of the office, the executive director shall:

(a) Give to the state a fidelity bond, with one or more corporate sureties authorized to do business in this state, in a penal sum prescribed by the Director of the Oregon Department of Administrative Services, but not less than \$50,000. The premium for the bond shall be paid from [*the Oregon Health Insurance Exchange Fund*] **an account established under ORS 741.101.**

(b) Subscribe to an oath that the executive director faithfully and impartially will discharge the duties of the office and that the executive director will support the Constitution of the United States and the Constitution of the State of Oregon. The executive director shall file a copy of the signed oath with the Secretary of State.

(3) The executive director [*may establish a line of credit under ORS 293.214 and*] has such other powers as are necessary to carry out the duties of the corporation, subject to policy direction by the board.

(4) The executive director may employ, supervise and terminate the employment of such staff as the executive director deems necessary. The executive director shall prescribe their duties and fix their compensation, in accordance with the personnel policies adopted by the board. Employees of the corporation may not be individuals who are:

(a) Employed by, consultants to or members of a board of directors of:

(A) An insurer or third party administrator;

(B) An insurance producer; or

(C) A health care provider, health care facility or health clinic;

(b) Members, board members or employees of a trade association of:

(A) Insurers or third party administrators; or

(B) Health care providers, health care facilities or health clinics; or

(c) Health care providers, unless they receive no compensation for rendering services as health care providers and do not have ownership interests in professional health care practices.

(5) The board shall adopt personnel policies, subject to ORS 236.605 to 236.640, for any transferred public employees. The board may elect to provide for participation in a health benefit plan available to state employees pursuant to ORS 243.105 to 243.285 and may elect to participate in the state deferred compensation plan established under ORS 243.401 to 243.507. If the board so elects, employees of the corporation shall be considered eligible employees for purposes of ORS 243.105 to 243.285 and eligible state employees for purposes of ORS 243.401 to 243.507.

(6) With respect to the Public Employees Retirement System, employees of the corporation shall be considered employees for purposes of ORS chapter 238 and eligible employees for purposes of ORS chapter 238A.

(7) Employees of the corporation may participate in collective bargaining in accordance with ORS 243.650 to 243.782.

SECTION 93. ORS 741.220 is amended to read:

741.220. (1) The Oregon Health Insurance Exchange Corporation shall keep an accurate accounting of the operation and all activities, receipts and expenditures of the corporation and the health insurance exchange.

(2) Beginning after the first 12 months of the operation of the exchange and every 12 months thereafter, the Secretary of State shall conduct a financial audit of the corporation and the *[fund]* **accounts established under ORS 741.101** pursuant to ORS 297.210, which shall include but is not limited to:

(a) A review of the sources and uses of the moneys in the *[fund]* **accounts**;

(b) A review of charges and fees imposed and collected pursuant to ORS 741.105; and

(c) A review of premiums collected and remitted.

(3) Beginning after the first 24 months of the operation of the exchange and every two years thereafter, the Secretary of State shall conduct a performance audit of the corporation and the exchange.

(4) The corporation board of directors, the executive director of the corporation and employees of the corporation shall cooperate with the Secretary of State in the audits and reviews conducted under subsections (2) and (3) of this section.

(5) The audits shall be conducted using generally accepted accounting principles and any financial integrity requirements of federal authorities.

(6) The cost of the audits required by subsections (2) and (3) of this section shall be paid by the corporation.

(7) The Secretary of State shall issue a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Oregon Health Authority, the Oregon Health Policy Board, the Department of Consumer and Business Services and appropriate federal authorities on the results of each audit conducted pursuant to this section, including any recommendations for

corrective actions. The report shall be available for public inspection, in accordance with the Secretary of State's established rules and procedures governing public disclosure of audit documents.

(8) To the extent the audit requirements under this section are similar to any audit requirements imposed on the corporation by federal authorities, the Secretary of State and the corporation shall make reasonable efforts to coordinate with the federal authorities to promote efficiency and the best use of resources in the timing and provision of information.

(9) Not later than the 90th day after the Secretary of State completes and delivers an audit report issued under subsection (7) of this section, the corporation shall notify the Secretary of State in writing of the corrective actions taken or to be taken, if any, in response to any recommendations in the report. The Secretary of State may extend the 90-day period for good cause.

SECTION 94. ORS 741.027 is amended to read:

741.027. (1) The Oregon Health Insurance Exchange Corporation board of directors shall select one of its members as chairperson and another as vice chairperson, for such terms and with duties and powers necessary for the performance of the functions of those offices as the board determines.

(2) A majority of the members of the board constitutes a quorum for the transaction of business.

(3) The board shall meet at least once every three months at a place, day and hour determined by the board. The board shall meet at such other times and places specified by the call of the chairperson or of a majority of the members of the board.

(4)(a) Whenever a member of the board has a conflict of interest on an issue that is before the board, the member shall declare to the board the nature of the conflict and the declaration shall be recorded in the official records of the board. The member may participate in any discussion on the issue but may not vote on the issue.

(b) As used in this subsection:

(A) "Business" has the meaning given that term in ORS 244.020.

(B) "Business with which the member or the member's relative is associated" has the meaning given the term "business with which the person is associated" in ORS 244.020.

(C) "Conflict of interest" means that by taking any action or making any decision or recommendation on an issue, the member, the member's relative, or any business with which the member or the member's relative is associated, would receive a private pecuniary benefit or detriment, unless the pecuniary benefit or detriment would affect to the same degree a class consisting of all consumers of or payers for health care in this state.

(5) A member of the board is entitled to compensation and expenses as provided in ORS 292.495, subject to the availability of funds in [*the Oregon Health Insurance Exchange Fund*] **an account established under ORS 741.101.**

(6) ORS 192.610 to 192.690 apply to the board, to the Individual and Employer Consumer Advisory Committee established by ORS 741.029 and to any advisory and technical committees established by the board under ORS 741.031.

SECTION 95. ORS 741.222 is amended to read:

741.222. (1) The executive director of the Oregon Health Insurance Exchange Corporation shall report to the Legislative Assembly each calendar quarter on:

(a) The financial condition of the health insurance exchange, including actual and projected revenues and expenses of the administrative operations of the exchange and commissions paid to insurance producers out of fees collected under ORS 741.105 (5);

(b) The implementation of the business plan adopted by the corporation board of directors;

(c) The development of the information technology system for the exchange; and

(d) Any other information requested by the leadership of the Legislative Assembly.

(2) The corporation board of directors shall provide to the Legislative Assembly, the Governor, the Oregon Health Authority, the Oregon Health Policy Board and the Department of Consumer and Business Services, not later than April 15 of each year:

(a) A report covering the activities and operations of the corporation during the previous year of operations;

(b) A statement of the financial condition, [*of the Oregon Health Insurance Exchange Fund*] as of December 31 of the previous year, **of the accounts established under ORS 741.101**;

(c) A description of the role of insurance producers in the exchange; and

(d) Recommendations, if any, for additional groups to be eligible to purchase qualified health plans through the exchange under ORS 741.310.

SECTION 96. ORS 741.310 is amended to read:

741.310. (1) The following individuals and groups may purchase qualified health plans through the health insurance exchange:

(a) Beginning January 1, 2014, individuals and employers with no more than 50 employees.

(b) Beginning January 1, 2016, employers with 51 to 100 employees.

(2)(a) Only individuals who purchase health plans through the exchange may be eligible to receive premium tax credits under section 36B of the Internal Revenue Code and reduced cost-sharing under 42 U.S.C. 18071.

(b) Only employers that purchase health plans through the exchange may be eligible to receive small employer health insurance credits under section 45R of the Internal Revenue Code.

(3) Only an insurer that has a certificate of authority to transact insurance in this state and that meets applicable federal requirements for participating in the exchange may offer a qualified health plan through the exchange. Any qualified health plan must be certified under subsection (4) of this section. Prepaid managed care health services organizations that do not have a certificate of authority to transact insurance may serve only medical assistance recipients through the exchange and may not offer qualified health plans.

(4) The Oregon Health Insurance Exchange Corporation shall adopt by rule uniform requirements, standards and criteria for the certification of qualified health plans, including requirements that a qualified health plan provide, at a minimum, essential health benefits and have acceptable consumer and provider satisfaction ratings. The corporation may limit the number of qualified health plans that may be offered through the exchange as long as the same limit applies to all insurers.

(5) Notwithstanding subsection (4) of this section, the corporation shall certify as qualified a dental only health plan as permitted by federal law.

(6) The corporation shall establish one streamlined and seamless application and enrollment process for both the exchange and the state medical assistance program.

(7) The corporation, in collaboration with the appropriate state authorities, may establish risk mediation programs within the exchange.

(8) The corporation shall establish by rule a process for certifying insurance producers to facilitate the transaction of insurance through the exchange, in accordance with federal standards and policies.

(9) The corporation shall ensure, as required by federal laws, that an insurer charges the same premiums for plans sold through the exchange as for identical plans sold outside of the exchange.

(10) The corporation is authorized to enter into contracts for the performance of duties, functions or operations of the exchange, including but not limited to contracting with:

(a) All insurers that meet the requirements of subsections (3) and (4) of this section, to offer qualified health plans through the exchange; and

(b) Navigators certified by the corporation under ORS 741.002.

(11) The corporation is authorized to apply for and accept federal grants, other federal funds and grants from nongovernmental organizations for purposes of developing, implementing and administering the exchange. Moneys received under this subsection shall be deposited in [*and credited to the Oregon Health Insurance Exchange Fund*] **an account** established under ORS 741.101.

SECTION 97. ORS 741.310, as amended by section 12, chapter 415, Oregon Laws 2011, is amended to read:

741.310. (1) Individuals and employers with no more than 100 employees may purchase qualified health plans through the health insurance exchange.

(2)(a) Only individuals who purchase health plans through the exchange may be eligible to receive premium tax credits under section 36B of the Internal Revenue Code and reduced cost-sharing under 42 U.S.C. 18071.

(b) Only employers that purchase health plans through the exchange may be eligible to receive small employer health insurance credits under section 45R of the Internal Revenue Code.

(3) Only an insurer that has a certificate of authority to transact insurance in this state and that meets applicable federal requirements for participating in the exchange may offer a qualified health plan through the exchange. Any qualified health plan must be certified under subsection (4) of this section. Prepaid managed care health services organizations that do not have a certificate of authority to transact insurance may serve only medical assistance recipients through the exchange and may not offer qualified health plans.

(4) The Oregon Health Insurance Exchange Corporation shall adopt by rule uniform requirements, standards and criteria for the certification of qualified health plans, including requirements that a qualified health plan provide, at a minimum, essential health benefits and have acceptable consumer and provider satisfaction ratings. The corporation may limit the number of qualified health plans that may be offered through the exchange as long as the same limit applies to all insurers.

(5) Notwithstanding subsection (4) of this section, the corporation shall certify as qualified a dental only health plan as permitted by federal law.

(6) The corporation shall establish one streamlined and seamless application and enrollment process for both the exchange and the state medical assistance program.

(7) The corporation, in collaboration with the appropriate state authorities, may establish risk mediation programs within the exchange.

(8) The corporation shall establish by rule a process for certifying insurance producers to facilitate the transaction of insurance through the exchange, in accordance with federal standards and policies.

(9) The corporation shall ensure, as required by federal laws, that an insurer charges the same premiums for plans sold through the exchange as for identical plans sold outside of the exchange.

(10) The corporation is authorized to enter into contracts for the performance of duties, functions or operations of the exchange, including but not limited to contracting with:

(a) Insurers that meet the requirements of subsections (3) and (4) of this section, to offer qualified health plans through the exchange; and

(b) Navigators certified by the corporation under ORS 741.002.

(11) The corporation is authorized to apply for and accept federal grants, other federal funds and grants from nongovernmental organizations for purposes of developing, implementing and administering the exchange. Moneys received under this subsection shall be deposited in [*and credited to the Oregon Health Insurance Exchange Fund*] **an account** established under ORS 741.101.

OREGON LOCAL DISASTER ASSISTANCE LOAN AND GRANT ACCOUNT

SECTION 98. ORS 401.536 is amended to read:

401.536. (1) The Oregon Local Disaster Assistance Loan **and Grant** Account is established as an account in the Oregon Disaster Response Fund. The account consists of moneys appropriated by the Legislative Assembly and any other moneys deposited into the account pursuant to law.

(2) Moneys in the account are continuously appropriated to the Oregon Military Department for:

(a) Providing loans to local governments, as defined in ORS 174.116, and school districts to match, either in full or in part, moneys from federal programs for federally declared disaster relief that require a match;

(b) Providing loans and grants to local governments, as defined in ORS 174.116, and school districts, for the purpose of paying costs incurred by local governments and school districts in response to federally declared disasters; and

[(b)] (c) Subject to subsection [(4)] (5) of this section, paying the department's expenses for administering **loans made from the account under paragraph (a) of this subsection.**

(3) **Loans made under subsection (2)(b) of this section shall be repaid pursuant to such terms and conditions as may be established by the Oregon Department of Administrative Services. Loans made under subsection (2)(b) of this section may be interest free, or bear interest at a rate established by the Oregon Department of Administrative Services. Amounts repaid on loans made under subsection (2)(b) of this section shall be deposited in the General Fund.**

[(3)] (4) The **Oregon Military** Department shall deposit into the account any amounts repaid on loans made under **subsection (2)(a) of this section.**

[(4)] (5) The **Oregon Military** Department may not charge the account more than five percent of the maximum amount in the account during a biennium for administrative expenses **attributable to a loan made under subsection (2)(a) of this section.**

[(5)] (6) An applicant may apply to the **Oregon Military** Department for a loan [*from the account*] **under subsection (2)(a) of this section.** The department shall consider the application, make a recommendation and submit the application and recommendation to the Local Disaster Assistance Review Board established under subsection [(6)] (7) of this section.

[(6)] (7) The **Oregon Military** Department shall establish a Local Disaster Assistance Review Board to:

(a) Review the recommendations of the department regarding loans [*from the account*] **under subsection (2)(a) of this section;**

(b) Approve, by a majority vote of members, the amount of any loan **under subsection (2)(a) of this section;** and

(c) Approve, by a majority vote of members, the terms and conditions of any loan **under subsection (2)(a) of this section.**

[(7)] (8) The review board shall include:

(a) Three members of county governing bodies, with at least one member representing a county from east of the crest of the Cascade Mountains, with membership determined by the Association of Oregon Counties;

(b) Three members of city governing bodies, with at least one member representing a city from east of the crest of the Cascade Mountains, with membership determined by the League of Oregon Cities;

(c) A representative of the office of the State Treasurer;

(d) A representative of the Oregon Military Department;

(e) A representative of school districts, with membership determined by the Oregon School Boards Association;

(f) A representative of special districts, with membership determined by the Special Districts Association of Oregon;

(g) A representative of the Oregon Department of Administrative Services; and

(h) Two additional members determined jointly by the department, the Association of Oregon Counties and the League of Oregon Cities.

[(8)] (9) The Office of Emergency Management of the Oregon Military Department shall adopt rules establishing:

(a) A loan application process and application forms **for loans under subsection (2)(a) of this section;**

(b) Reasonable financial terms and conditions for loans **under subsection (2)(a) of this section,** including interest and the repayment of the loans;

(c) Eligibility requirements for [*loan*] applicants **for loans under subsection (2)(a) of this section;**

(d) The maximum amount an applicant for a loan **under subsection (2)(a) of this section** may receive;

(e) The methodology the department will use for charging the account for administrative expenses; and

(f) Procedures for submission of [*loan*] recommendations to the review board **for loans under subsection (2)(a) of this section.**

[9] (10) The Oregon Military Department shall provide staff support for the review board.

TRANSFERS

SECTION 99. Except as provided in sections 31, 32 and 73 of this 2012 Act, the transfers described in sections 26, 27, 28, 31, 32, 33, 34, 35, 53, 54, 72 and 73 of this 2012 Act shall be made on the effective date of this 2012 Act from moneys maintained, on the effective date of this 2012 Act, in the funds or accounts from which the transfers are made.

REPEALS

SECTION 100. (1) ORS 291.385 and 391.100 are repealed.

(2) The Light Rail Construction Fund created under ORS 391.100 is abolished. Any moneys remaining in the Light Rail Construction Fund on the effective date of this 2012 Act are transferred to the General Fund.

CONFORMING AMENDMENTS

SECTION 101. ORS 199.432 is amended to read:

199.432. (1) A boundary commission created under ORS 199.430 may sue and be sued, enter into contracts and perform such other actions as may be necessary to carry out the provisions of ORS 199.410 to 199.534.

(2) A boundary commission is a state agency as defined in ORS 291.002 and is not subject to the provisions of ORS 291.201 to 291.226, 291.232 to 291.260, 291.371, 291.373[,] or 291.375 [*or 291.385*].

(3) A boundary commission employing personnel under ORS 199.455 shall provide employee benefits provided to state management service employees.

SECTION 102. ORS 291.100 is amended to read:

291.100. (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*] **ensure** that the state's investment in a modern and complete statewide financial management system is fully implemented, every agency and unit of state government shall:

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

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

(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)*.

SECTION 103. ORS 291.371 is amended to read:

291.371. (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 or the [*interim*] Joint **Interim** Committee on Ways and Means 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, the Oregon Health Authority 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.

CONFLICT AMENDMENTS

SECTION 104. If House Bill 4163 becomes law, section 75 of this 2012 Act (amending ORS 1.177) is repealed and ORS 1.177, as amended by section 1, chapter __, Oregon Laws 2012 (Enrolled House Bill 4163), is amended to read:

1.177. [(1) *The Chief Justice of the Supreme Court may appoint an Advisory Committee on State Court Security and Emergency Preparedness for the Supreme Court, Court of Appeals, Oregon Tax Court and office of the State Court Administrator.*]

[(2) *A committee appointed under this section shall meet at the call of the Chief Justice.*]

[(3) A committee appointed under this section shall submit to the Chief Justice a state plan for state court security improvement, emergency preparedness and business continuity for each building containing or utilized by the Supreme Court, Court of Appeals, Oregon Tax Court or office of the State Court Administrator. The plan shall include capital outlay needs and may include recommendations concerning:]

[(a) Procedures for the secure handling, transportation and disposal of hazardous substances and contraband in court proceedings;]

[(b) Emergency alarm systems accessible to all court employees;]

[(c) Physical security for judges, staff and the public;]

[(d) Procedures for emergency evacuation of buildings containing or utilized by the Supreme Court, Court of Appeals, Oregon Tax Court or office of the State Court Administrator;]

[(e) Procedures for identifying judicial security personnel, including a judicial security marshal to be appointed by the Chief Justice, who shall be responsible for:]

[(A) The management of the plan;]

[(B) A regular security inspection of each building containing or utilized by the Supreme Court, Court of Appeals, Oregon Tax Court or office of the State Court Administrator; and]

[(C) Regular security training of sheriff's department, judicial department and district attorney personnel; and]

[(f) Priorities for available court facilities within the building based on the level of security needed.]

[(4) The plan may also include:]

[(a) An evaluation of how each of the items listed in subsection (3) of this section is being addressed and should be addressed;]

[(b) How practices, facilities and equipment falling below appropriate levels are to be improved;]

[(c) The anticipated cost of improving practices, facilities and equipment that fall below appropriate levels;]

[(d) The funding source for each improvement; and]

[(e) The time schedule for implementation of improvements.]

[(5) Adoption of a plan under this section is subject to the approval of the Chief Justice. The plan may conclude that state court facility security is adequate.]

[(6) Implementation of the elements of a plan that have a significant fiscal impact are subject to availability of funding.]

[(7) The plan adopted under this section shall be reviewed and revised or amended as needed, not later than June 30 of each odd-numbered year.]

(1) The Chief Justice of the Supreme Court may adopt state standards, and a state plan, for state court security, emergency preparedness and business continuity for facilities used by judges or staff of a circuit court, the Supreme Court, Court of Appeals or Oregon Tax Court or the office of the State Court Administrator.

(2) The Chief Justice may appoint a judicial security officer and other judicial security personnel charged with implementing a state plan adopted under subsection (1) of this section.

[(8)] (3) Except as provided in this subsection, a plan [prepared] adopted under this section [is] and all documents related to development of the plan are confidential and need not be disclosed under the provisions of ORS 192.410 to 192.505. The Chief Justice may authorize the disclosure of all or part of a plan prepared under this section if the Chief Justice determines that the interest of the public would be served by the disclosure and that the disclosure will not impair the integrity of the plan. Records of expenditures for a state court security plan and records of equipment purchased under the plan are not confidential under the provisions of this subsection, and are subject to disclosure as public records under the provisions of ORS 192.410 to 192.505.

SECTION 105. If House Bill 4082 becomes law, section 44 of this 2012 Act (amending ORS 419A.170) is repealed and section 2, chapter ___, Oregon Laws 2012 (Enrolled House Bill 4082), is amended to read:

Sec. 2. (1) In every case under ORS chapter 419B, the court shall appoint a court appointed special advocate. The court appointed special advocate is deemed a party in these proceedings and may be represented by counsel, file pleadings and request hearings and may subpoena, examine and cross-examine witnesses. If the court appointed special advocate is represented by counsel, counsel shall be paid from funds in the Court Appointed Special Advocate Fund established under section 5, chapter __, Oregon Laws 2012 (Enrolled House Bill 4082) [of this 2012 Act]. [Funds from the Public Defense Services Account, or from Judicial Department operating funds, may not be used for this purpose.] **Counsel representing a court appointed special advocate may not be paid from moneys in the Public Defense Services Account established by ORS 151.225, from moneys appropriated to the Public Defense Services Commission or from Judicial Department operating funds.**

(2) Subject to the direction of the court, the duties of the court appointed special advocate are to:

- (a) Investigate all relevant information about the case;
- (b) Advocate for the child or ward, ensuring that all relevant facts are brought before the court;
- (c) Facilitate and negotiate to ensure that the court, the Department of Human Services, if applicable, and the child or ward's attorney, if any, fulfill their obligations to the child or ward in a timely fashion; and

(d) Monitor all court orders to ensure compliance and to bring to the court's attention any change in circumstances that may require a modification of an order of the court.

(3) If a juvenile court does not have a sufficient number of qualified court appointed special advocates available to it, the court may, in fulfillment of the requirements of this section, appoint a juvenile department employee or other suitable person to represent the child or ward's interest in court pursuant to ORS 419A.012 or 419B.195.

(4) Any person appointed as a court appointed special advocate in any judicial proceeding on behalf of the child or ward is immune from any liability for defamation or statements made in good faith by that person, orally or in writing, in the course of the case review or judicial proceeding.

(5) Any person appointed as a court appointed special advocate, CASA Volunteer Program director, CASA Volunteer Program employee or member of the board of directors or trustees of any CASA Volunteer Program is immune from any liability for acts or omissions or errors in judgment made in good faith in the course or scope of that person's duties or employment as part of a CASA Volunteer Program.

(6) Whenever the court appoints a court appointed special advocate or other person under subsections (1) to (3) of this section to represent the child or ward, the court may require a parent, if able, or guardian of the estate, if the estate is able, to pay, in whole or in part, the reasonable costs of court appointed special advocate services, including reasonable attorney fees. The court's order of payment is enforceable in the same manner as an order of support under ORS 419B.408.

(7) Upon presentation of the order of appointment by the court appointed special advocate, any agency, hospital, school organization, division, office or department of the state, doctor, nurse or other health care provider, psychologist, psychiatrist, police department or mental health clinic shall permit the court appointed special advocate to inspect and copy, and may consult with the court appointed special advocate regarding, any records relating to the child or ward involved in the case, without the consent of the child, ward or parents.

(8) All records and information acquired or reviewed by a court appointed special advocate during the course of official duties are deemed confidential under ORS 419A.255.

(9) For the purposes of a Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.) grant to this state under P.L. 93-247, or any related state or federal legislation, a court appointed special advocate or other person appointed pursuant to subsections (1) to (3) of this section is deemed a guardian ad litem to represent the interests of the child or ward in proceedings before the court.

SECTION 106. If House Bill 4082 becomes law, section 49 of this 2012 Act is amended to read:

Sec. 49. Section 38 of this 2012 Act and the amendments to ORS 45.275, 45.285, 135.050, 151.216, 151.225, 151.487, [419A.170,] 419A.211, 419B.198, 419C.203 and 419C.535 **and section 2, chapter __, Oregon Laws 2012 (Enrolled House Bill 4082)**, by sections 37, [and] 39 to 48 **and 105** of this 2012 Act become operative on July 1, 2012.

CAPTIONS

SECTION 107. The unit captions used in this 2012 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 2012 Act.

EMERGENCY CLAUSE

SECTION 108. This 2012 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2012 Act takes effect on its passage.

Passed by Senate March 5, 2012

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House March 5, 2012

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Received by Governor:

.....M,....., 2012

Approved:

.....M,....., 2012

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2012

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Kate Brown, Secretary of State