

Requested by Senator THOMSEN

**PROPOSED AMENDMENTS TO
SENATE BILL 1049**

1 In line 2 of the printed bill, before the period insert “; creating new pro-
2 visions; amending ORS 237.650, 238.005, 238.008, 238.410, 238.415, 238.420,
3 238.445, 238.447, 238.465, 238.580, 238.600, 238.645, 238.650, 238.660, 238.661,
4 238.665, 238.675, 238.694, 238.695, 238.698, 238.700, 238.705, 238A.005, 243.800,
5 341.551 and 461.010 and sections 1, 2, 3, 3b, 13, 15, 24, 26 and 29, chapter 105,
6 Oregon Laws 2018, and sections 2 and 3, chapter 118, Oregon Laws 2018; re-
7 pealing section 4, chapter 118, Oregon Laws 2018; and declaring an emer-
8 gency.”.

9 Delete lines 4 through 6 and insert:

10

11

“TIER 4 PLAN

12

“(Definitions)

13

14 **“SECTION 1. Definitions. As used in sections 1 to 30 of this 2019**
15 **Act:**

16 **“(1) ‘Active member’ means a member of the Tier 4 Plan who is**
17 **actively employed in a qualifying position.**

18 **“(2) ‘Eligible employee’ means a person who performs services for**
19 **a participating public employer, including elected officials other than**
20 **judges. ‘Eligible employee’ does not include:**

21 **“(a) Persons engaged as independent contractors;**

- 1 **“(b) Aliens working under a training or educational visa;**
- 2 **“(c) Persons provided sheltered employment or make-work by a**
3 **public employer;**
- 4 **“(d) Persons categorized by a participating public employer as stu-**
5 **dent employees;**
- 6 **“(e) Any person who is an inmate of a state institution;**
- 7 **“(f) Employees of foreign trade offices of the Oregon Business De-**
8 **velopment Department who live and perform services in foreign**
9 **countries under the provisions of ORS 285A.075 (1)(g);**
- 10 **“(g) An employee actively participating in an alternative retirement**
11 **program established under ORS 353.250 or an optional retirement plan**
12 **established under ORS 341.551;**
- 13 **“(h) Employees of a public university listed in ORS 352.002 who are**
14 **actively participating in an optional retirement plan offered under**
15 **ORS 243.800;**
- 16 **“(i) Persons employed in positions classified as post-doctoral scholar**
17 **positions by a public university listed in ORS 352.002, or by the Oregon**
18 **Health and Science University, under ORS 350.370;**
- 19 **“(j) Any employee who belongs to a class of employees that was not**
20 **eligible on June 30, 2020, for membership in the system under the**
21 **provisions of ORS chapter 238 or 238A or other law;**
- 22 **“(k) Any person who belongs to a class of employees who are not**
23 **eligible to become members of the Public Employees Retirement Sys-**
24 **tem under the provisions of section 4 of this 2019 Act;**
- 25 **“(L) Any person who is retired under ORS 238A.100 to 238A.250 or**
26 **ORS chapter 238 and who continues to receive retirement benefits**
27 **while employed; and**
- 28 **“(m) Judges.**
- 29 **“(3) ‘Firefighter’ has the meaning given that term in ORS 238A.005.**
- 30 **“(4)(a) ‘Hour of service’ means:**

1 **“(A) An hour for which an eligible employee is directly or indirectly**
2 **paid or entitled to payment by a participating public employer for**
3 **performance of duties in a qualifying position; and**

4 **“(B) An hour of vacation, holiday, illness, incapacity, jury duty,**
5 **military duty or authorized leave during which an employee does not**
6 **perform duties but for which the employee is directly or indirectly paid**
7 **or entitled to payment by a participating public employer for services**
8 **in a qualifying position, as long as the hour is within the number of**
9 **hours regularly scheduled for the performance of duties during the**
10 **period of vacation, holiday, illness, incapacity, jury duty, military duty**
11 **or authorized leave.**

12 **“(b) ‘Hour of service’ does not include any hour for which payment**
13 **is made or due under a plan maintained solely for the purpose of**
14 **complying with applicable unemployment compensation laws.**

15 **“(5) ‘Inactive member’ means a member of the Tier 4 Plan whose**
16 **membership has not been terminated, who is not a retired member and**
17 **who is not employed in a qualifying position.**

18 **“(6) ‘Member’ means an eligible employee who has established**
19 **membership in the Tier 4 Plan and whose membership has not been**
20 **terminated under section 6 of this 2019 Act.**

21 **“(7) ‘Participating public employer’ means a public employer as de-**
22 **finied in ORS 238.005 that provides retirement benefits for employees**
23 **of the public employer under the system.**

24 **“(8) ‘Police officer’ means a police officer as described in ORS**
25 **238.005.**

26 **“(9) ‘Qualifying position’ means one or more jobs with one or more**
27 **participating public employers in which an eligible employee performs**
28 **600 or more hours of service in a calendar year, excluding any service**
29 **in a job for which benefits are not provided under the Tier 4 Plan**
30 **pursuant to section 4 (2) of this 2019 Act.**

1 “(10) ‘Retired member’ means a member who has received a dis-
2 tribution of the vested accounts of the member under section 19 of this
3 2019 Act and is not reemployed in a qualifying position.

4 “(11)(a) ‘Salary’ means the remuneration paid to an active member
5 in return for services to the participating public employer, including
6 remuneration in the form of living quarters, board or other items of
7 value, to the extent the remuneration is includable in the employee’s
8 taxable income under Oregon law. ‘Salary’ includes the additional
9 amounts specified in paragraph (b) of this subsection, but does not
10 include the amounts specified in paragraph (c) of this subsection, re-
11 gardless of whether those amounts are includable in taxable income.

12 “(b) ‘Salary’ includes the following amounts:

13 “(A) Payments of employee and employer money into a deferred
14 compensation plan that are made at the election of the employee.

15 “(B) Contributions to a tax-sheltered or deferred annuity that are
16 made at the election of the employee.

17 “(C) Any amount that is contributed to a cafeteria plan or qualified
18 transportation fringe benefit plan by the employer at the election of
19 the employee and that is not includable in the taxable income of the
20 employee by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on De-
21 cember 31, 2018.

22 “(D) Any amount that is contributed to a cash or deferred ar-
23 rangement by the employer at the election of the employee and that
24 is not included in the taxable income of the employee by reason of 26
25 U.S.C. 402(e)(3), as in effect on December 31, 2018.

26 “(E) Retroactive payments described in ORS 238.008.

27 “(F) The amount of an employee contribution to the Tier 4 Plan
28 that is paid by the employer and deducted from the compensation of
29 the employee, as provided under section 9 (1) and (2)(a) of this 2019
30 Act.

1 “(G) The amount of an employee contribution to the Tier 4 Plan
2 that is not paid by the employer under section 9 of this 2019 Act.

3 “(H) Wages of a deceased member paid to a surviving spouse or
4 dependent children under ORS 652.190.

5 “(c) ‘Salary’ does not include the following amounts:

6 “(A) Travel or any other expenses incidental to employer’s business
7 that are reimbursed by the employer.

8 “(B) Payments made on account of an employee’s death.

9 “(C) Any lump sum payment for accumulated unused sick leave,
10 vacation leave or other paid leave.

11 “(D) Any severance payment, accelerated payment of an employ-
12 ment contract for a future period or advance against future wages.

13 “(E) Any retirement incentive, retirement bonus or retirement
14 gratuitous payment.

15 “(F) Payment for a leave of absence after the date the employer and
16 employee have agreed that no future services in a qualifying position
17 will be performed.

18 “(G) Payments for instructional services rendered to public univer-
19 sities listed in ORS 352.002 or the Oregon Health and Science Univer-
20 sity when those services are in excess of full-time employment subject
21 to sections 1 to 30 of this 2019 Act. A person employed under a contract
22 for less than 12 months is subject to this subparagraph only for the
23 months covered by the contract.

24 “(H) The amount of an employee contribution to the Tier 4 Plan
25 that is paid by the employer and is not deducted from the compen-
26 sation of the employee, as provided under section 9 (1) and (2)(b) of
27 this 2019 Act.

28 “(I) Any amount in excess of \$200,000 for a calendar year. If any
29 period over which salary is determined is less than 12 months, the
30 \$200,000 limitation for that period shall be multiplied by a fraction, the

1 numerator of which is the number of months in the determination
2 period and the denominator of which is 12. The Public Employees Re-
3 tirement Board shall adopt rules adjusting this dollar limit to incor-
4 porate cost-of-living adjustments authorized by the Internal Revenue
5 Service.

6
7 “(Tier 4 Plan Established)
8

9 **“SECTION 2. Tier 4 Plan established.** (1) The Tier 4 Plan is estab-
10 lished. The assets of the plan must be held as part of the trust estab-
11 lished by ORS 238.660 for the exclusive benefit of the participants and
12 beneficiaries. It is the intent of the Legislative Assembly that pursu-
13 ant to section 414(k) of the Internal Revenue Code the Tier 4 Plan be
14 established and maintained as a tax-qualified defined contribution
15 governmental plan for the purposes of sections 72(d) and 415 of the
16 Internal Revenue Code. The Public Employees Retirement Board may
17 create a separate account within the Public Employees Retirement
18 Fund for the Tier 4 Plan.

19 “(2) Notwithstanding any provision of ORS chapter 238 or 238A, any
20 person who is employed by a participating public employer on or after
21 July 1, 2020, and who has not established membership in the Public
22 Employees Retirement System before July 1, 2020, is entitled to receive
23 only the benefits provided under the Tier 4 Plan for periods of service
24 with participating public employers on or after July 1, 2020, and has
25 no right or claim to any benefit under ORS chapter 238 or 238A except
26 as specifically provided by sections 1 to 30 of this 2019 Act.

27 “(3) Any person who is a member of the Public Employees Retire-
28 ment System on July 1, 2020, is entitled to receive the benefits pro-
29 vided by ORS chapter 238 or 238A, as applicable, for all service
30 performed before, on and after July 1, 2020, unless the person’s mem-

1 **bership in the system is subsequently terminated under ORS 238.095,**
2 **238A.110 or 238A.310. If the person’s membership in the system is ter-**
3 **minated under ORS 238.095, 238A.110 or 238A.310 on or after July 1,**
4 **2020, the person is entitled to receive the benefits provided under the**
5 **Tier 4 Plan for periods of service with participating public employers**
6 **after the termination of membership.**

7 **“(4) A person establishes membership in the system before July 1,**
8 **2020, if:**

9 **“(a) The person is a member of the system, or a judge member of**
10 **the system, on June 30, 2020; or**

11 **“(b) The person performed any period of service for a participating**
12 **public employer before July 1, 2020, that is credited to the six-month**
13 **period of employment required of an employee under ORS 238A.100 or**
14 **238A.300 before an employee may become a member of the system.**

15 **“(5) Except as provided in sections 1 to 30 of this 2019 Act, ORS**
16 **chapters 238 and 238A do not apply to the Tier 4 Plan.**

17 **“(6) The provisions of this section do not apply to a person elected**
18 **or appointed as a judge as defined in ORS 238.500.**

19 **“SECTION 3. Tier 4 Plan part of Public Employees Retirement**
20 **System. (1) The Tier 4 Plan is part of the Public Employees Retirement**
21 **System and is administered by the Public Employees Retirement**
22 **Board.**

23 **“(2) ORS 238.008, 238.225, 238.229, 238.231, 238.285, 238.410, 238.445,**
24 **238.447, 238.450, 238.455, 238.458, 238.460, 238.465, 238.470, 238.600, 238.601,**
25 **238.605, 238.610, 238.615, 238.618, 238.630, 238.635, 238.640, 238.645, 238.650,**
26 **238.655, 238.657, 238.660, 238.661, 238.665, 238.675, 238.692, 238.694, 238.695,**
27 **238.696, 238.698, 238.700, 238.705, 238.710 and 238.715 apply to the Tier 4**
28 **Plan.**

29 **“(3) The Oregon Investment Council shall invest the assets of the**
30 **Tier 4 Plan as a part of the Public Employees Retirement Fund. Except**

1 as provided by subsection (4) of this section, the investment of Tier 4
2 Plan assets is subject to the provisions of ORS 293.701 to 293.857. The
3 Oregon Investment Council may invest assets of the Tier 4 Plan dif-
4 ferently than the other assets of the Public Employees Retirement
5 System.

6 “(4) Investment of the assets of the Oregon Public Service Retire-
7 ment Plan is not subject to the limitations imposed by ORS 293.726 (6).

8 “(5) The board may contract with a private provider for the ad-
9 ministration of the Tier 4 Plan. The board is not subject to the pro-
10 visions of ORS chapter 279A or 279B in awarding a contract under the
11 provisions of this subsection. The board shall establish procedures for
12 inviting proposals and awarding contracts under this section.

13

14 “(Participation by Participating Public Employers)

15

16 **“SECTION 4. Participation by participating public employers. (1)**
17 **All public employers participating in the Public Employees Retirement**
18 **System on July 1, 2020, shall continue to be participating public em-**
19 **ployers for the purpose of the Tier 4 Plan.**

20 “(2) Any participating public employer that provided retirement
21 benefits under ORS chapter 238 or 238A for some but not all of the
22 employees of the participating public employer on July 1, 2020, need
23 not provide benefits under the Tier 4 Plan for any class of employees
24 who are not members of the system on July 1, 2020.

25 “(3) Any public employer that is not a participating public employer
26 on July 1, 2020, may become a participating public employer under the
27 Tier 4 Plan. A public employer may become a participating public
28 employer under this subsection only for the purposes of service per-
29 formed by eligible employees of the public employer on or after the
30 date the public employer elects to participate in the program.

1 **ipating public employer shall make employer contributions to the Tier**
2 **4 Plan in the following amounts:**

3 **“(a) For a member who is not a police officer or a firefighter, six**
4 **percent of the member’s salary.**

5 **“(b) For a member who is a police officer or a firefighter, eight**
6 **percent of the member’s salary.**

7 **“(2) A member of the Tier 4 Plan shall make employee contributions**
8 **to the Tier 4 Plan of four percent of the member’s salary.**

9 **“(3)(a) In addition to the employee contribution required under**
10 **subsection (2) of this section, a member of the Tier 4 Plan may make**
11 **an employee contribution to the Tier 4 Plan of exactly two percent of**
12 **the member’s salary.**

13 **“(b) If a member of the Tier 4 Plan makes an employee contribution**
14 **under this subsection, the employer of the member shall make an**
15 **employer contribution of two percent of the member’s salary, in ad-**
16 **dition to the contribution required under subsection (1) of this section.**

17 **“(4)(a) Employer contributions made under this section shall be**
18 **credited by the Public Employees Retirement Board to the employer**
19 **account established for the member under section 11 (2) of this 2019**
20 **Act.**

21 **“(b) Employee contributions made under this section shall be cred-**
22 **ited by the board to the employee account established for the member**
23 **under section 11 (3) of this 2019 Act.**

24 **“SECTION 9. Employer payment of employee contributions. (1) A**
25 **participating public employer may agree, by a written employment**
26 **policy or by a collective bargaining agreement, to pay the employee**
27 **contribution required under section 8 (2) of this 2019 Act. The policy**
28 **or agreement need not include all members of the Tier 4 Plan em-**
29 **ployed by the employer.**

30 **“(2) An agreement under this section to pay the required employee**

1 **contribution may provide that:**

2 **“(a) Employee compensation be reduced to generate the funds**
3 **needed to make the employee contributions; or**

4 **“(b) Additional amounts be paid by the employer for the purpose**
5 **of making the employee contributions, and employee compensation**
6 **not be reduced for the purpose of generating the funds needed to make**
7 **the employee contributions.**

8 **“(3) A participating public employer must give written notice to the**
9 **Public Employees Retirement Board at the time that a written em-**
10 **ployment policy or collective bargaining agreement described in sub-**
11 **section (1) of this section is adopted or changed. The notice must**
12 **specifically indicate whether the agreement is as described in sub-**
13 **section (2)(a) or (b) of this section. Any change in the manner in which**
14 **employee contributions are to be paid applies only to employee con-**
15 **tributions made on or after the date the notice is received by the**
16 **board.**

17 **“SECTION 10. Employer contribution rate for Tier 4 Plan. (1) A**
18 **participating public employer shall, at intervals designated by the**
19 **Public Employees Retirement Board, transmit to the board an em-**
20 **ployer contribution to the Public Employees Retirement System for**
21 **each member employed by the public employer. The amount of the**
22 **employer contribution under this section plus the amount of employer**
23 **contributions made for the member under section 8 of this 2019 Act**
24 **must equal the greater of:**

25 **“(a) Eighteen percent of the salary of the member; or**

26 **“(b) The employer rate attributable to a member of the Oregon**
27 **Public Service Retirement Plan under ORS 238A.220.**

28 **“(2) The board shall apply contributions made under this section in**
29 **excess of the amounts contributed by the employer for members under**
30 **section 8 of this 2019 Act against the liabilities of the system.**

1 **SECTION 11. Tier 4 Plan accounts established.** (1) Upon any con-
2 tributions being made to the Tier 4 Plan by or on behalf of a member
3 of the plan, the Public Employees Retirement Board shall create the
4 account or accounts described in this section. Each account shall be
5 adjusted at least annually in accordance with rules adopted by the
6 board to reflect any net earnings or losses on those contributions and
7 to pay the reasonable administrative costs of maintaining the plan to
8 the extent the earnings on the assets of the plan are insufficient to
9 pay those costs. The adjustments described in this subsection shall
10 continue until the account is distributed to the member or forfeited.

11 “(2) The board shall establish an employer account, which shall
12 consist of the employer contributions made on behalf of the member
13 under section 8 (1) and (3)(b) of this 2019 Act, as adjusted under sub-
14 section (1) of this section.

15 “(3)(a) The board shall establish an employee account, which shall
16 consist of the employee contributions made by the member under
17 section 8 (2) and (3)(a) of this 2019 Act, as adjusted under subsection
18 (1) of this section.

19 “(b) The board shall create a separate employee account for a
20 member who becomes an active member for the purpose of service in
21 the Legislative Assembly under ORS 237.650, which shall consist of the
22 employee contributions made by the member that are attributable to
23 the member’s legislative service, as adjusted under subsection (1) of
24 this section.

25 “(4) If the board accepts rollover contributions on behalf of the
26 member, the board shall establish a rollover account, which shall
27 consist of the rollover contributions made by the member as adjusted
28 under subsection (1) of this section. Contributions and the earnings
29 attributable to the contributions must be accounted for separately.

30 “(5) The board shall provide an annual statement to each active and

1 inactive member of the plan that reflects the amount credited to the
2 accounts established under this section.

3 **“SECTION 12. Rollover contributions; rules.** (1) The Public Em-
4 ployees Retirement Board may accept rollover contributions from a
5 member of the Tier 4 Plan or from an eligible retirement plan from
6 which the member is entitled to an eligible rollover distribution. The
7 board may accept rollover contributions under this section only if the
8 amounts contributed qualify as eligible rollover distributions under the
9 federal income tax laws governing tax-qualified retirement plans and,
10 if the rollover contribution is made by the member, the contribution
11 is paid to the Tier 4 Plan within the time limits established by the
12 federal income tax laws governing tax-qualified retirement plans.

13 **“(2)** The board shall adopt rules and establish procedures for deter-
14 mining whether to accept a rollover contribution under this section
15 and shall require such documentation as may be necessary to ensure
16 that the receipt of a rollover contribution does not jeopardize the sta-
17 tus of the Tier 4 Plan as a tax-qualified governmental plan.

18 **“SECTION 13. Limitation on contributions.** Notwithstanding any
19 other provision of sections 1 to 30 of this 2019 Act, the annual addition
20 to the employer and employee accounts of a member of the Tier 4 Plan
21 for a calendar year, together with the annual additions to the accounts
22 of the member under any other defined contribution plan maintained
23 by the participating public employer for a calendar year, may not ex-
24 ceed the lesser of \$40,000, or 100 percent of the member’s compensation
25 for that calendar year. For purposes of this section, ‘annual addition’
26 has the meaning given that term in 26 U.S.C. 415(c)(2), as in effect on
27 December 31, 2018, and ‘compensation’ has the meaning given the term
28 ‘participant’s compensation’ in 26 U.S.C. 415(c)(3), as in effect on De-
29 cember 31, 2018. The Public Employees Retirement Board shall adopt
30 rules for the administration of this limitation, including adjustments

1 in the annual dollar limitation to reflect cost-of-living adjustments
2 authorized by the Internal Revenue Service.

3
4 “(Withdrawal by Inactive Member)

5
6 **“SECTION 14. Withdrawal by inactive member. (1) An inactive**
7 **member of the Tier 4 Plan may elect to receive a distribution of the**
8 **amounts in the member’s employer account, employee account and**
9 **rollover account to the extent the member is vested in those accounts**
10 **if the inactive member has separated from all service with participat-**
11 **ing public employers and with employers who are treated as part of a**
12 **participating public employer’s controlled group under the federal laws**
13 **and rules governing the status of the system and the fund as a quali-**
14 **fied governmental retirement plan and trust.**

15 “(2) A member may not make an election under this section for less
16 than all of the member’s accounts described in section 11 of this 2019
17 Act in which the member is vested.

18
19 “(Investment Options)

20
21 **“SECTION 15. Investment options; rules. (1) Except as provided in**
22 **subsection (7) of this section, the Public Employees Retirement Board,**
23 **in consultation with the office of the State Treasurer, shall adopt rules**
24 **providing that if the Oregon Investment Council invests the assets of**
25 **the Tier 4 Plan in multiple risk categories depending on the charac-**
26 **teristics of an individual member, a member of the Tier 4 Plan may**
27 **elect to have the moneys in the member’s individual accounts estab-**
28 **lished under ORS 238A.350 deposited into an investment option ap-**
29 **proved by the council.**

30 “(2) A member may make an election under this section once per

1 calendar year. The board shall establish by rule the date by which a
2 member must make an election under this section in order for the
3 election to become effective on January 1 of the following calendar
4 year.

5 “(3) The board shall give each member of the Tier 4 Plan a disclo-
6 sure statement in writing that contains information regarding the in-
7 vestment options approved under this section, including the probable
8 income and probable safety of the moneys invested, that persons of
9 reasonable prudence and discretion require when determining the
10 permanent disposition of their funds.

11 “(4) Subject to such direction and oversight as may be provided by
12 the Legislative Assembly, the Public Employees Retirement Board
13 shall take all steps necessary to develop and implement the informa-
14 tion technology systems needed to implement and carry out this sec-
15 tion.

16 “(5) The board may contract with a private provider for purposes
17 of implementing this section. The board is not subject to the pro-
18 visions of ORS chapter 279A or 279B in awarding a contract under the
19 provisions of this subsection. The board shall establish procedures for
20 inviting proposals and awarding contracts under this subsection.

21 “(6) The board may adopt rules as necessary to implement this
22 section, but the council and the office of the State Treasurer retain
23 authority over investment decisions required to implement this sec-
24 tion.

25 “(7) The board may not adopt rules under subsection (1) of this
26 section that violate state or federal laws or regulations.

27 “(8) A civil action for damages may not be brought against the
28 state, the State Treasurer, the Oregon Investment Council or the
29 Public Employees Retirement Board, or any of their officers or em-
30 ployees, by reason of any losses suffered by a member of the Tier 4

1 Plan or the beneficiaries of a member because of the member's choice
2 of an investment option approved under this section.

3

4

“(Retirement)”

5

6 **“SECTION 16. Normal retirement age; normal retirement date. (1)**

7 **Normal retirement age for a member of the Tier 4 Plan who does not**
8 **retire from service as a police officer or a firefighter is the earlier of:**

9 **“(a) 65 years of age; or**

10 **“(b) 58 years of age if the member has been an active member in**
11 **30 or more calendar years.**

12 **“(2) Normal retirement age for a member of the Tier 4 Plan who**
13 **retires from service as a police officer or firefighter, and who has held**
14 **a position as a police officer or firefighter continuously for a period**
15 **of not less than five years immediately preceding the effective date of**
16 **retirement, is the earlier of:**

17 **“(a) 60 years of age; or**

18 **“(b) 53 years of age if the member has been an active member in**
19 **25 or more calendar years.**

20 **“(3) The normal retirement date of a member is the first day of the**
21 **month beginning on or after the date the member reaches normal re-**
22 **tirement age.**

23 **“SECTION 17. Earliest retirement age; earliest retirement date. (1)**

24 **Except as provided in this section, earliest retirement age for a mem-**
25 **ber of the Tier 4 Plan is 55 years of age.**

26 **“(2) Earliest retirement age for a member of the Tier 4 Plan who**
27 **retires from service as a police officer or firefighter is 50 years of age**
28 **if the member has held a position as a police officer or firefighter**
29 **continuously for a period of not less than five years immediately be-**
30 **fore the effective date of retirement. Earliest retirement date for a**

1 member described in this subsection is not later than the date the
2 member reaches 55 years of age.

3 “(3) A member of the Tier 4 Plan who has reached earliest retire-
4 ment age may retire on an early retirement date that is the first day
5 of any month on or after the member has reached earliest retirement
6 age.

7 “SECTION 18. Latest retirement date; required minimum distrib-
8 utions; rules. An active member of the Tier 4 Plan who is 70-1/2 years
9 of age or older must retire not later than April 1 of the calendar year
10 following the calendar year in which the member terminates employ-
11 ment with all participating public employers. An inactive member of
12 the Tier 4 Plan must retire not later than April 1 of the calendar year
13 following the calendar year in which the member attains 70-1/2 years
14 of age.

15 “SECTION 19. Payment of accounts at retirement; rules. Upon re-
16 tirement on or after the earliest retirement date, as described in sec-
17 tion 17 of this 2019 Act, a member of the Tier 4 Plan shall receive in
18 a lump sum the amounts in the member’s employer account, employee
19 account and rollover account to the extent the member is vested in
20 those accounts.

21

22 “(Death and Disability Benefits)

23

24 “SECTION 20. Death benefits; rules. (1) If a member of the Tier 4
25 Plan program dies before retirement, the amounts in the member’s
26 employer account, employee account and rollover account, to the ex-
27 tent the member is vested in those accounts, shall be paid in a lump
28 sum to the beneficiary or beneficiaries designated by the member for
29 the purposes of this section.

30 “(2) If a member of the Tier 4 Plan is married at the time of death,

1 or there exists at the time of death any other person who is constitu-
2 tionally required to be treated in the same manner as a spouse for the
3 purpose of retirement benefits, the spouse or other person shall be the
4 beneficiary for purposes of the death benefit payable under this section
5 unless the spouse or other person consents to the designation of a
6 different beneficiary or beneficiaries before the designation has been
7 made and the consent has not been revoked by the spouse or other
8 person as of the time of the member's death. Consent and revocation
9 of consent must be in writing, acknowledged by a notary public, and
10 submitted to the Public Employees Retirement Board in accordance
11 with rules adopted by the board. If the member's spouse is designated
12 as the member's beneficiary and the marriage of the member and
13 spouse is subsequently dissolved, the former spouse shall be treated
14 as predeceasing the member for purposes of this section, unless the
15 member expressly designates the former spouse as beneficiary after
16 the effective date of the dissolution or the former spouse is required
17 to be designated as a beneficiary under the provisions of ORS 238.465.

18 **SECTION 21. Disability benefit; rules.** (1) An active member of the
19 Tier 4 Plan described in subsection (2) of this section who becomes
20 disabled shall receive a disability benefit in the amount of 45 percent
21 of the salary of the member determined as of the last full month of
22 employment before the disability commences.

23 **“(2) The provisions of this section apply only to:**

24 **“(a) A member who was an active member in 10 or more calendar**
25 **years before the member becomes disabled; or**

26 **“(b) A member who becomes disabled by reason of injury or disease**
27 **sustained while in the actual performance of duty.**

28 **“(3) A disability benefit under this section shall be paid until:**

29 **“(a) The member is no longer disabled; or**

30 **“(b) The member attains normal retirement age under section 16**

1 of this 2019 Act.

2 “(4) A member is considered to be disabled for the purpose of this
3 section if the member is found, after being examined by one or more
4 physicians selected by the Public Employees Retirement Board, to be
5 mentally or physically incapacitated for an extended duration and
6 unable to perform any work for which qualified, by reason of injury
7 or disease that was not intentionally self-inflicted.

8 “SECTION 22. Funding of disability benefit. (1) A participating
9 public employer shall contribute to the Public Employees Retirement
10 Fund, at intervals designated by the Public Employees Retirement
11 Board, all amounts determined by the board to be actuarially neces-
12 sary to adequately fund the disability benefits to be provided under
13 section 21 of this 2019 Act and the reasonable costs of administering
14 the provision of those benefits. The board shall periodically determine
15 the liabilities attributable to the disability benefits and shall set the
16 amount of contributions to be made by participating public employers,
17 and by other public employers who are required to make contributions
18 on behalf of members, to ensure that those liabilities will be funded
19 no more than 40 years after the date on which the determination is
20 made. All participating public employers are considered to be a single
21 employer for the purposes of the contributions required under this
22 section.

23 “(2) For the purpose of the actuarial computation required under
24 subsection (1) of this section, the board shall separately establish the
25 liability of participating public employers for police officers and fire-
26 fighters, and shall require that public employers that employ police
27 officers and firefighters make contributions for those employees based
28 on the liability established under this section.

29

30 “(Credit for Service in Uniformed Services)

1 of after-tax employee contributions that are not includable in gross
2 income may be transferred only to an individual retirement account
3 or annuity described in 26 U.S.C. 408(a) or (b), or to a qualified defined
4 contribution or defined benefit plan described in 26 U.S.C. 401(a) or
5 403(b) that agrees to account separately for amounts transferred, in-
6 cluding accounting separately for the portion of the distribution that
7 is includable in gross income and the portion of the distribution that
8 is not includable in gross income. The amount transferred shall be
9 treated as consisting first of the portion of the distribution that is
10 includable in gross income, determined without regard to 26 U.S.C.
11 402(c)(1).

12 “(4) The board shall adopt rules implementing the direct rollover
13 requirements of 26 U.S.C. 401(a)(31) and the regulations implementing
14 that section, and may adopt administrative exceptions to the direct
15 rollover requirements to the extent permitted by 26 U.S.C. 401(a)(31)
16 and the regulations implementing that section.

17 “(5) All references in this section to federal laws and regulations
18 are to the laws and regulations in effect on December 31, 2018.

19 “(6) For purposes of this section:

20 “(a) ‘Distributee’ means a member, a member’s surviving spouse
21 or a member’s alternate payee under ORS 238.465.

22 “(b) ‘Eligible retirement plan’ means:

23 “(A) An individual retirement account described in 26 U.S.C. 408(a);

24 “(B) An individual retirement annuity described in 26 U.S.C. 408(b),
25 other than an endowment contract;

26 “(C) A qualified trust under 26 U.S.C. 401(a), that is a defined con-
27 tribution or defined benefit plan and permits the acceptance of rollover
28 contributions;

29 “(D) An annuity plan described in 26 U.S.C. 403(a);

30 “(E) An eligible deferred compensation plan described in 26 U.S.C.

1 457(b) that is maintained by an eligible governmental employer de-
2 scribed in 26 U.S.C. 457(e)(1)(A) and that agrees to account separately
3 for amounts transferred into such plan from the distributing plan; or

4 “(F) An annuity contract described in 26 U.S.C. 403(b).

5 **“SECTION 25. Distribution of death benefit as rollover distribution.**

6 (1) If a benefit is payable under sections 1 to 30 of this 2019 Act to a
7 beneficiary by reason of the death of a member of the system, the
8 beneficiary may elect to have all or part of the distribution of the
9 death benefit paid in an eligible rollover distribution to an individual
10 retirement plan described in 26 U.S.C. 408(a), or an individual retire-
11 ment annuity, other than an endowment contract, described in 26
12 U.S.C. 408(b), if the plan or annuity is established for the purpose of
13 receiving the eligible rollover distribution on behalf of the designated
14 beneficiary.

15 “(2) Subsection (1) of this section applies to an eligible rollover
16 distribution of death benefits to a beneficiary who is not treated as the
17 spouse of the decedent for federal tax purposes and who is the
18 decedent’s designated beneficiary for the purposes of the minimum
19 required distribution requirements of 26 U.S.C. 401(a)(9). To the extent
20 provided by rules of the Public Employees Retirement Board, a trust
21 maintained for the benefit of one or more beneficiaries must be
22 treated by the board in the same manner as a trust that is designated
23 as a beneficiary for the purposes of the minimum required distribution
24 requirements of 26 U.S.C. 401(a)(9).

25 “(3) As used in this section, ‘eligible rollover distribution’ has the
26 meaning given that term in 26 U.S.C. 402(c)(4), as in effect on De-
27 cember 31, 2018.

28
29 “(Work After Retirement)
30

1 the information technology systems needed to implement and carry
2 out sections 1 to 30 of this 2019 Act.

3

4

“(Legislators)”

5

6 **“SECTION 30.** Notwithstanding any other provision of sections 1 to
7 **30 of this 2019 Act:**

8 **“(1) A retired member who has retired as other than a member of**
9 **the Legislative Assembly and who is thereafter appointed or elected**
10 **as a member of the Legislative Assembly may elect, by giving the**
11 **Public Employees Retirement Board written notice, to receive the**
12 **benefits available to a retired member under sections 1 to 30 of this**
13 **2019 Act, and be an active member as a member of the Legislative**
14 **Assembly for the purpose of service in the Legislative Assembly. A**
15 **person may make an election under this subsection only if the person**
16 **becomes an active member for the purpose of service in the Legislative**
17 **Assembly as provided in ORS 237.650 (7). Notice of an election under**
18 **this subsection must be given by the person not more than 30 days**
19 **after the person takes office.**

20 **“(2) A member of the Legislative Assembly who is a member of the**
21 **Public Employees Retirement System under sections 1 to 30 of this 2019**
22 **Act as a member of the Legislative Assembly and who becomes eligible**
23 **to retire by reason of service as other than a member of the Legisla-**
24 **tive Assembly, without regard to when that service was performed,**
25 **may elect, by giving the board written notice, to retire and receive the**
26 **benefits available to a retired member under sections 1 to 30 of this**
27 **2019 Act, and to continue, for the purpose of service in the Legislative**
28 **Assembly, as an active member as a member of the Legislative As-**
29 **sembly.**

30 **“SECTION 31.** ORS 237.650 is amended to read:

1 “237.650. (1) Except as provided in this section, a person who is appointed
2 or elected as a member of the Legislative Assembly and who is a member of
3 the Public Employees Retirement System at the time of the appointment or
4 election may make a retirement plan election in the manner provided by this
5 section. If a person who is permitted to make an election under this section
6 does not make a retirement plan election under subsection (2), (3), (4) or (5)
7 of this section, the person is deemed to have elected a retirement plan as
8 provided in subsection [(6)] (8) of this section.

9 “(2) An active or inactive member of the Public Employees Retirement
10 System who is appointed or elected as a member of the Legislative Assembly,
11 and who established membership in the system before August 29, 2003, as
12 described in ORS 238A.025, may:

13 “(a) Elect to remain a member of the system under ORS chapter 238 for
14 the purpose of service in the Legislative Assembly;

15 “(b) Decline to remain a member of the system under ORS chapter 238
16 and elect to become a legislator member of the state deferred compensation
17 plan under ORS 237.655 for the purpose of service in the Legislative Assem-
18 bly; or

19 “(c) Decline to remain a member of the system under ORS chapter 238 or
20 to become a legislator member of the state deferred compensation plan under
21 ORS 237.655 for the purpose of service in the Legislative Assembly.

22 “(3) A retired member of the Public Employees Retirement System who
23 is appointed or elected as a member of the Legislative Assembly, and who
24 established membership in the system before August 29, 2003, as described in
25 ORS 238A.025, may:

26 “(a) Elect to become an active member of the system under ORS chapter
27 238 for the purpose of service in the Legislative Assembly;

28 “(b) Decline to become an active member of the system under ORS chapter
29 238 and elect to become a legislator member of the state deferred compen-
30 sation plan under ORS 237.655 for the purpose of service in the Legislative

1 Assembly; or

2 “(c) Decline to become an active member of the system under ORS chapter
3 238 or to become a legislator member of the state deferred compensation plan
4 under ORS 237.655 for the purpose of service in the Legislative Assembly.

5 “(4) An active or inactive member of the Public Employees Retirement
6 System who is appointed or elected as a member of the Legislative Assembly,
7 and who established membership in the system on or after August 29, 2003,
8 as described in ORS 238A.025, **and before July 1, 2020, as described in**
9 **section 2 of this 2019 Act**, may:

10 “(a) Elect to remain a member of the system under ORS chapter 238A for
11 the purpose of service in the Legislative Assembly;

12 “(b) Decline to remain a member of the system under ORS chapter 238A
13 and elect to become a legislator member of the state deferred compensation
14 plan under ORS 237.655 for the purpose of service in the Legislative Assem-
15 bly; or

16 “(c) Decline to remain a member of the system under ORS chapter 238A
17 or to become a legislator member of the state deferred compensation plan
18 under ORS 237.655 for the purpose of service in the Legislative Assembly.

19 “(5) A retired member of the Public Employees Retirement System who
20 is appointed or elected as a member of the Legislative Assembly, and who
21 established membership in the system on or after August 29, 2003, as de-
22 scribed in ORS 238A.025, **and before July 1, 2020, as described in section**
23 **2 of this 2019 Act**, may:

24 “(a) Elect to become an active member of the system under ORS chapter
25 238A for the purpose of service in the Legislative Assembly;

26 “(b) Decline to become an active member of the system under ORS chapter
27 238A and elect to become a legislator member of the state deferred compen-
28 sation plan under ORS 237.655 for the purpose of service in the Legislative
29 Assembly; or

30 “(c) Decline to become an active member of the system under ORS chapter

1 238A or to become a legislator member of the state deferred compensation
2 plan under ORS 237.655 for the purpose of service in the Legislative Assem-
3 bly.

4 **“(6) An active or inactive member of the Public Employees Retire-
5 ment System who is appointed or elected as a member of the Legisla-
6 tive Assembly, and who established membership in the system on or
7 after July 1, 2020, as described in section 2 of this 2019 Act, may:**

8 **“(a) Elect to remain a member of the system under sections 1 to
9 30 of this 2019 Act for the purpose of service in the Legislative As-
10 sembly;**

11 **“(b) Decline to remain a member of the system under sections 1 to
12 30 of this 2019 Act and elect to become a legislator member of the state
13 deferred compensation plan under ORS 237.655 for the purpose of ser-
14 vice in the Legislative Assembly; or**

15 **“(c) Decline to remain a member of the system under sections 1 to
16 30 of this 2019 Act or to become a legislator member of the state de-
17 ferred compensation plan under ORS 237.655 for the purpose of service
18 in the Legislative Assembly.**

19 **“(7) A retired member of the Public Employees Retirement System
20 who is appointed or elected as a member of the Legislative Assembly,
21 and who established membership in the system on or after July 1, 2020,
22 as described in section 2 of this 2019 Act, may:**

23 **“(a) Elect to become an active member of the system under sections
24 1 to 30 of this 2019 Act for the purpose of service in the Legislative
25 Assembly;**

26 **“(b) Decline to become an active member of the system under
27 sections 1 to 30 of this 2019 Act and elect to become a legislator
28 member of the state deferred compensation plan under ORS 237.655 for
29 the purpose of service in the Legislative Assembly; or**

30 **“(c) Decline to become an active member of the system under**

1 **sections 1 to 30 of this 2019 Act or to become a legislator member of**
2 **the state deferred compensation plan under ORS 237.655 for the pur-**
3 **pose of service in the Legislative Assembly.**

4 “[(6)] (8) Written notice of an election under subsection (2), (3), (4) [or],
5 (5), (6) or (7) of this section must be given to the Public Employees Retire-
6 ment Board not more than 30 days after the person takes office. If the board
7 does not receive written notice of the election within 30 days after the per-
8 son takes office:

9 “(a) A person described in subsection (2) of this section is deemed to have
10 elected to remain a member of the Public Employees Retirement System un-
11 der ORS chapter 238 for the purpose of service in the Legislative Assembly.

12 “(b) A person described in subsection (3) of this section is deemed to have
13 declined to become an active member of the system under ORS chapter 238
14 or to become a legislator member of the state deferred compensation plan
15 under ORS 237.655, and remains a retired member of the system under ORS
16 chapter 238 for the purpose of service in the Legislative Assembly.

17 “(c) A person described in subsection (4) of this section is deemed to have
18 elected to remain a member of the Public Employees Retirement System un-
19 der ORS chapter 238A for the purpose of service in the Legislative Assembly.

20 “(d) A person described in subsection (5) of this section is deemed to have
21 declined to become an active member of the system under ORS chapter 238A
22 or to become a legislator member of the state deferred compensation plan
23 under ORS 237.655, and remains a retired member of the system under ORS
24 chapter 238A for the purpose of service in the Legislative Assembly.

25 **“(e) A person described in subsection (6) of this section is deemed**
26 **to have elected to remain a member of the Public Employees Retire-**
27 **ment System under sections 1 to 30 of this 2019 Act for the purpose**
28 **of service in the Legislative Assembly.**

29 **“(f) A person described in subsection (7) of this section is deemed**
30 **to have declined to become an active member of the system under**

1 **sections 1 to 30 of this 2019 Act or to become a legislator member of**
2 **the state deferred compensation plan under ORS 237.655, and remains**
3 **a retired member of the system under sections 1 to 30 of this 2019 Act**
4 **for the purpose of service in the Legislative Assembly.**

5 “[7] **(9)** An election under subsection (3)(b) or (c) or (5)(b) or (c) of this
6 section does not affect the status of a person as a retired member of the
7 system and a recipient of retirement benefits under ORS chapter 238 or 238A
8 **or sections 1 to 30 of this 2019 Act.**

9 “[8] **(10)** An election under this section does not affect the ability of a
10 person appointed or elected as a member of the Legislative Assembly to
11 participate in the state deferred compensation plan in the manner provided
12 by ORS 243.401 to 243.507 as other than a legislator member under ORS
13 237.655.

14

15

“(Conforming Amendments)”

16

17 **“SECTION 32.** ORS 238.008 is amended to read:

18 “238.008. (1) For the purpose of computing salary under this chapter and
19 ORS chapter 238A **and sections 1 to 30 of this 2019 Act**, salary includes
20 retroactive payments of wages made to an employee to correct a clerical er-
21 ror. Retroactive payments described in this subsection shall be allocated to
22 and deemed paid in the periods in which the work was done or in which the
23 work would have been done.

24 “(2) For the purpose of computing salary under this chapter and ORS
25 chapter 238A, salary includes retroactive payments of wages made to an
26 employee pursuant to a judgment, administrative order, arbitration award,
27 conciliation agreement or settlement agreement that resolves a dispute or
28 claim based on the employee’s rights under employment or wage law or under
29 a collective bargaining agreement. Retroactive payments described in this
30 subsection shall be allocated to and deemed paid in the periods of the

1 employee's active or inactive membership in which the work was done or in
2 which the work would have been done.

3 “(3) If retroactive payments are included in the salary of an employee
4 under this section, the employee shall receive retirement credit for the peri-
5 ods to which the payment is allocated.

6 **“SECTION 33.** ORS 238.410 is amended to read:

7 “238.410. (1) As used in this section:

8 “(a) ‘Carrier’ means an insurance company or health care service con-
9 tractor holding a valid certificate of authority from the Director of the De-
10 partment of Consumer and Business Services, an insurance company or
11 health care service contractor licensed or certified in another state that is
12 operating under the laws of that state, or two or more of those companies
13 or contractors acting together pursuant to a joint venture, partnership or
14 other joint means of operation.

15 “(b) ‘Eligible person’ means:

16 “(A) A member of the Public Employees Retirement System who is retired
17 for service or disability and is receiving a retirement allowance or benefit
18 under the system **or is a retired member under sections 1 to 30 of this**
19 **2019 Act**, and a spouse or dependent of that member;

20 “(B) A person who is a surviving spouse or dependent of a deceased re-
21 tired member of the system or the surviving spouse or dependent of a member
22 of the system who had not retired but who had reached earliest retirement
23 age at the time of death;

24 “(C) A person who is receiving retirement pay or a pension calculated
25 under ORS 1.314 to 1.380 (1989 Edition), and a spouse or dependent of that
26 person; or

27 “(D) A surviving spouse or dependent of a deceased retired member of the
28 system or of a person who was receiving retirement pay or a pension calcu-
29 lated under ORS 1.314 to 1.380 (1989 Edition) if the surviving spouse or de-
30 pendent was covered at the time of the decedent's death by a health care

1 insurance plan contracted for under this section.

2 “(c) ‘Health care’ means medical, surgical, hospital or any other remedial
3 care recognized by state law and related services and supplies and includes
4 comparable benefits for persons who rely on spiritual means of healing.

5 “(2) The Public Employees Retirement Board shall conduct a continuing
6 study and investigation of all matters connected with the providing of health
7 care insurance protection to eligible persons. The board shall design benefits,
8 devise specifications, invite proposals, analyze carrier responses to adver-
9 tisements for proposals and do acts necessary to award contracts to provide
10 health care insurance, including insurance that provides coverage supple-
11 mental to federal Medicare coverage, with emphasis on features based on
12 health care cost containment principles, for eligible persons. The board is
13 not subject to the provisions of ORS chapters 279A and 279B, except ORS
14 279B.235, in awarding contracts under the provisions of this section. The
15 board shall establish procedures for inviting proposals and awarding con-
16 tracts under this section.

17 “(3) The board shall enter into a contract with a carrier to provide health
18 care insurance for eligible persons for a one or two-year period. The board
19 may enter into more than one contract with one or more carriers, contract-
20 ing jointly or severally, if in the opinion of the board it is necessary to do
21 so to obtain maximum coverage at minimum cost and consistent with the
22 health care insurance needs of eligible persons. The board periodically shall
23 review a current contract or contracts and make suitable study and investi-
24 gation for the purpose of determining whether a different contract or con-
25 tracts can and should, in the best interest of eligible persons, be entered into.
26 If it would be advantageous to eligible persons to do so, the board shall enter
27 into a different contract or contracts. Contracts shall be signed by the
28 chairperson on behalf of the board.

29 “(4) Except as provided in ORS 238.415 and 238.420, the board may deduct
30 monthly from the retirement allowance or benefit, retirement pay or pension

1 payable to an eligible person who elects to participate in a health care in-
2 surance plan the monthly cost of the coverage for the person under a health
3 care insurance contract entered into under this section and the administra-
4 tive costs incurred by the board under this section, and shall pay those
5 amounts into the Standard Retiree Health Insurance Account established
6 under subsection (7) of this section. The board by rule may establish other
7 procedures for collecting the monthly cost of the coverage and the adminis-
8 trative costs incurred by the board under this section if the board does not
9 deduct those costs from the retirement allowance or benefit, retirement pay
10 or pension payable to an eligible person.

11 “(5) Subject to applicable provisions of ORS chapter 183, the board may
12 make rules not inconsistent with this section to determine the terms and
13 conditions of eligible person participation and coverage and otherwise to
14 implement and carry out the purposes and provisions of this section and ORS
15 238.420.

16 “(6) The board may retain consultants, brokers or other advisory person-
17 nel, organizations specializing in health care cost containment or other ad-
18 ministrative services when it determines the necessity and, subject to the
19 State Personnel Relations Law, shall employ such personnel as are required
20 to assist in performing the functions of the board under this section.

21 “(7) Pursuant to section 401(h) of the Internal Revenue Code, the Stand-
22 ard Retiree Health Insurance Account is established within the Public Em-
23 ployees Retirement Fund, separate and distinct from the General Fund. All
24 payments made by eligible persons for health insurance coverage provided
25 under this section shall be held in the account. Interest earned by the ac-
26 count shall be credited to the account. All moneys in the account are con-
27 tinuously appropriated to the Public Employees Retirement Board and may
28 be used by the board only to pay the cost of health insurance coverage under
29 this section and to pay the administrative costs incurred by the board under
30 this section.

1 “(8) The sum of all amounts paid by eligible persons into the Standard
2 Retiree Health Insurance Account, by participating public employers into the
3 Retiree Health Insurance Premium Account under ORS 238.415, and by par-
4 ticipating public employers into the Retirement Health Insurance Account
5 under ORS 238.420, may not exceed 25 percent of the aggregate contributions
6 made by participating public employers to the Public Employees Retirement
7 Fund on or after July 11, 1987, not including contributions made by partic-
8 ipating public employers to fund prior service credits.

9 “(9) Until all liabilities for health benefits under the system are satisfied,
10 contributions and earnings in the Standard Retiree Health Insurance Ac-
11 count, the Retiree Health Insurance Premium Account under ORS 238.415
12 and the Retirement Health Insurance Account under ORS 238.420 may not
13 be diverted or otherwise put to any use other than providing health benefits
14 and payment of reasonable costs incurred in administering this section and
15 ORS 238.415 and 238.420. Upon satisfaction of all liabilities for providing
16 health benefits under this section, any amount remaining in the Standard
17 Retiree Health Insurance Account shall be returned to the participating
18 public employers who have made contributions to the account. The distrib-
19 ution shall be made in such equitable manner as the board determines ap-
20 propriate.

21 **“SECTION 34.** ORS 238.415 is amended to read:

22 “238.415. (1) As used in this section:

23 “(a) ‘Board’ means the Public Employees Retirement Board.

24 “(b) ‘Eligible retired state employee’ means:

25 “(A) A retired member of the Public Employees Retirement System who
26 was a state employee at the time of retirement, is retired for service or dis-
27 ability, is receiving a retirement allowance or benefit under the system **or**
28 **received a lump sum distribution under section 19 of this 2019 Act**, had
29 eight years or more of qualifying service in the system at the time of re-
30 tirement or is receiving a disability retirement allowance including a pension

1 computed as if the member had eight years or more of creditable service in
2 the system at the time of retirement, and has attained earliest service re-
3 tirement age but is not eligible for federal Medicare coverage; or

4 “(B) A person who is a surviving spouse or dependent of a deceased eli-
5 gible retired state employee as provided in subparagraph (A) of this para-
6 graph at the time of death, who:

7 “(i) Is receiving a retirement allowance or benefit under the system; or

8 “(ii) Was covered at the time of the eligible retired state employee’s death
9 by the retired employee’s health insurance contracted for under ORS 238.410,
10 and the employee retired on or after September 29, 1991.

11 “(c) ‘Qualifying service’ means creditable service in the system and any
12 periods of employment with an employer participating in the system required
13 of the employee before becoming a member of the system.

14 “(d) ‘System’ means the Public Employees Retirement System.

15 “(2) Of the monthly cost of coverage for an eligible retired state employee
16 under a health care insurance contract entered into under ORS 238.410, an
17 amount as determined under subsection (3) of this section shall be paid from
18 the Retiree Health Insurance Premium Account established by subsection (4)
19 of this section, and any monthly cost in excess of the amount so determined
20 shall be paid by the eligible retired state employee in the manner provided
21 in ORS 238.410 (4). Any amount paid under this subsection shall be exempt
22 from all state, county and municipal taxes imposed on the eligible retired
23 member.

24 “(3) On or before January 1 of each year, the Public Employees Retire-
25 ment Board shall calculate the average difference between the health insur-
26 ance premiums paid by retired state employees under contracts entered into
27 by the board under ORS 238.410 and the health insurance premiums paid by
28 state employees who are not retired under contracts entered into by the
29 Public Employees’ Benefit Board. For the purposes of subsection (2) of this
30 section, an eligible retired state employee shall be entitled to receive toward

1 the monthly cost of coverage under a health insurance contract entered into
2 under ORS 238.410:

3 “(a) For an eligible retired state employee with eight years or more of
4 qualifying service in the system, but less than 10 years of qualifying service
5 in the system, 50 percent of the amount calculated by the board under this
6 subsection.

7 “(b) For an eligible retired state employee with 10 years or more of
8 qualifying service in the system, but less than 15 years of qualifying service
9 in the system, 60 percent of the amount calculated by the board under this
10 subsection.

11 “(c) For an eligible retired state employee with 15 years or more of
12 qualifying service in the system, but less than 20 years of qualifying service
13 in the system, 70 percent of the amount calculated by the board under this
14 subsection.

15 “(d) For an eligible retired state employee with 20 years or more of
16 qualifying service in the system, but less than 25 years of qualifying service
17 in the system, 80 percent of the amount calculated by the board under this
18 subsection.

19 “(e) For an eligible retired state employee with 25 years or more of
20 qualifying service in the system, but less than 30 years of qualifying service
21 in the system, 90 percent of the amount calculated by the board under this
22 subsection.

23 “(f) For an eligible retired state employee with 30 years or more of qual-
24 ifying service in the system, 100 percent of the amount calculated by the
25 board under this subsection.

26 “(4) Pursuant to section 401(h) of the Internal Revenue Code, the Retiree
27 Health Insurance Premium Account is established within the Public Em-
28 ployees Retirement Fund, separate and distinct from the General Fund. In-
29 terest earned by the account shall be credited to the account. All moneys in
30 the account are continuously appropriated to the Public Employees Retire-

1 ment Board and may be used only to pay costs of health care insurance
2 contract coverage under subsection (2) of this section, paying the adminis-
3 trative costs incurred by the board under this section and investment of
4 moneys in the account under any law of this state specifically authorizing
5 that investment.

6 “(5) The Retiree Health Insurance Premium Account shall be funded by
7 employer contributions. The state shall transmit to the board those amounts
8 the board determines to be actuarially necessary to fund the liabilities of the
9 account. The level of employer contributions shall be established by the
10 board using the same actuarial assumptions it uses to determine employer
11 contribution rates to the Public Employees Retirement Fund. The amounts
12 shall be transmitted at the same time and in the same manner as contribu-
13 tions for pension benefits are transmitted under ORS 238.225.

14 “(6) The Public Employees Retirement Board shall, by rule, establish a
15 procedure for calculating the average difference between the health insur-
16 ance premiums paid by retired state employees under contracts entered into
17 by the board under ORS 238.410 and the health insurance premiums paid by
18 state employees who are not retired under contracts entered into by the
19 Public Employees’ Benefit Board.

20 “(7) As provided in section 401(h)(5) of the Internal Revenue Code of 1986,
21 upon satisfaction of all liabilities for providing benefits described in sub-
22 section (2) of this section, any amount remaining in the Retiree Health In-
23 surance Premium Account shall be returned to the state.

24 “(8) No member of the system shall have an interest in the Retiree Health
25 Insurance Premium Account or in the benefits provided under this section.

26 **“SECTION 35.** ORS 238.420 is amended to read:

27 “238.420. (1) As used in this section, ‘eligible retired member’ means:

28 “(a) A retired member of the Public Employees Retirement System who
29 is retired for service or disability, is receiving a retirement allowance or
30 benefit under the system **or received a lump sum distribution under**

1 **section 19 of this 2019 Act**, had eight years or more of qualifying service
2 in the system at the time of retirement or is receiving a disability retirement
3 allowance including a pension computed as if the member had eight years
4 or more of creditable service in the system at the time of retirement, and is
5 eligible for federal Medicare coverage; or

6 “(b) A person who is a surviving spouse or dependent of a deceased eli-
7 gible retired member as provided in paragraph (a) of this subsection at the
8 time of death, who is eligible for federal Medicare coverage and who:

9 “(A) Is receiving a retirement allowance or benefit under the system; or

10 “(B) Was covered at the time of the retired member’s death by the retired
11 member’s health insurance contracted for under ORS 238.410, and the mem-
12 ber retired before May 1, 1991.

13 “(2) For purposes of subsection (1)(a) of this section, ‘qualifying service’
14 means creditable service in the system and any periods of employment with
15 an employer participating in the system required of the employee before be-
16 coming a member of the system.

17 “(3) Of the monthly cost of coverage for an eligible retired member under
18 a health care insurance contract that provides coverage supplemental to
19 federal Medicare coverage entered into under ORS 238.410, an amount equal
20 to \$60 or the total monthly cost of that coverage, whichever is less, shall be
21 paid from the Retirement Health Insurance Account established by sub-
22 section (4) of this section, and any monthly cost in excess of \$60 shall be paid
23 by the eligible retired member in the manner provided in ORS 238.410 (4).
24 Any amount paid under this subsection shall be exempt from all state, county
25 and municipal taxes imposed on the eligible retired member.

26 “(4) Pursuant to section 401(h) of the Internal Revenue Code, the Retire-
27 ment Health Insurance Account is established within the Public Employees
28 Retirement Fund, separate and distinct from the General Fund. Interest
29 earned by the account shall be credited to the account. All moneys in the
30 account are continuously appropriated to the Public Employees Retirement

1 Board and may be used only to pay costs of health care insurance contract
2 coverage under subsection (3) of this section, paying the administrative costs
3 incurred by the board under this section and investment of moneys in the
4 account under any law of this state specifically authorizing that investment.

5 “(5) The Retirement Health Insurance Account shall be funded by em-
6 ployer contributions. Each public employer that is a member of the system
7 shall transmit to the board such amounts as the board determines to be
8 actuarially necessary to fund the liabilities of the account. The level of em-
9 ployer contributions shall be established by the board using the same
10 actuarial assumptions it uses to determine employer contribution rates to the
11 Public Employees Retirement Fund. The amounts shall be transmitted at the
12 same time and in the same manner as contributions for pension benefits are
13 transmitted under ORS 238.225.

14 “(6) As provided in section 401(h)(5) of the Internal Revenue Code of 1986,
15 upon satisfaction of all liabilities for providing benefits described in sub-
16 section (1) of this section, any amount remaining in the Retirement Health
17 Insurance Account shall be returned to the employers participating in the
18 retirement system on an equitable basis as determined by the board.

19 “(7) No member of the system shall have an interest in the Retirement
20 Health Insurance Account.

21 **“SECTION 36.** ORS 238.445 is amended to read:

22 “238.445. (1) Except as provided in this section, the right of a person to
23 a pension, an annuity or a retirement allowance, to the return of contribu-
24 tion, the pension, annuity or retirement allowance itself, any optional benefit
25 or death benefit, or any other right accrued or accruing to any person under
26 the provisions of this chapter or ORS chapter 238A **or sections 1 to 30 of**
27 **this 2019 Act**, and the money in the various funds created by ORS 238.660
28 and 238.670, shall be exempt from garnishment and all state, county and
29 municipal taxes heretofore or hereafter imposed, except as provided under
30 ORS chapter 118, shall not be subject to execution, garnishment, attachment

1 or any other process or to the operation of any bankruptcy or insolvency law
2 heretofore or hereafter existing or enacted, and shall be unassignable.

3 “(2) Subsection (1) of this section does not apply to state personal income
4 taxation of amounts paid under this chapter and ORS chapter 238A **and**
5 **sections 1 to 30 of this 2019 Act.**

6 “(3) Unless otherwise ordered by a court under ORS 25.387, the exemption
7 from execution or other process granted under this section applies to 50
8 percent of amounts paid under this chapter and ORS chapter 238A **and**
9 **sections 1 to 30 of this 2019 Act** if the execution or other process is issued
10 for a support obligation or an order or notice entered or issued under ORS
11 chapter 25, 107, 108, 109, 110, 416, 419B or 419C.

12 **“SECTION 37.** ORS 238.447 is amended to read:

13 “238.447. (1) Notwithstanding ORS 238.445, any retirement allowance,
14 pension payment, lump sum payment or other distribution payable under this
15 chapter or ORS chapter 238A **or sections 1 to 30 of this 2019 Act** to a
16 person convicted of a felony is subject to execution, garnishment, attachment
17 or other process to collect, and may be assigned to satisfy, the portion of a
18 money award described in subsection (2) of this section that is included in
19 a judgment entered in the criminal action as provided in ORS 18.048.

20 “(2) Subsection (1) of this section applies only to the amount of a money
21 award attributable to restitution ordered under ORS 137.106 or a
22 compensatory fine ordered under ORS 137.101.

23 **“SECTION 38.** ORS 238.465 is amended to read:

24 “238.465. (1) Notwithstanding ORS 238.445 or any other provision of law,
25 payments under this chapter or ORS chapter 238A of any pension, annuity,
26 retirement allowance, disability benefit, death benefit, refund benefit or
27 other benefit that would otherwise be made to a person entitled thereto un-
28 der this chapter or ORS chapter 238A **or sections 1 to 30 of this 2019 Act**
29 shall be paid, in whole or in part, by the Public Employees Retirement Board
30 to an alternate payee if and to the extent expressly provided for in the terms

1 of any judgment of annulment or dissolution of marriage or of separation,
2 or the terms of any court order or court-approved property settlement
3 agreement incident to any judgment of annulment or dissolution of marriage
4 or of separation. Except as provided in subsection (5) of this section, the
5 total actuarial value of benefits payable to a member and to an alternate
6 payee under this section may not be greater than the value of the benefits
7 the member would otherwise be eligible to receive if the annulment or dis-
8 solution of marriage or separation had not occurred. Any payment under this
9 subsection to an alternate payee bars recovery by any other person.

10 “(2) A judgment, order or settlement providing for payment to an alter-
11 nate payee under subsection (1) of this section may also provide:

12 “(a) That payments to the alternate payee may commence, at the election
13 of the alternate payee, at any time after the earlier of:

14 “(A) The earliest date the member would be eligible to receive retirement
15 benefits if the member separates from service; or

16 “(B) The date the member actually separates from service due to death,
17 disability, retirement or termination of employment.

18 “(b) That the alternate payee may elect to receive payment in any form
19 of pension, annuity, retirement allowance, disability benefit, death benefit,
20 refund benefit or other benefit, except a benefit in the form of a joint and
21 survivor annuity, that would be available to the member under this chapter
22 or ORS chapter 238A, or that would be available to the member if the mem-
23 ber retired or separated from service at the time of election by the alternate
24 payee, without regard to the form of benefit elected by the member.

25 “(c) That the alternate payee’s life is the measuring life for the purpose
26 of measuring payments to the alternate payee under the form of benefit se-
27 lected by the alternate payee and for the purpose of determining necessary
28 employer reserves.

29 “(d) Except as provided in ORS 238.305 (10) and 238.325 (7), that any per-
30 son designated by the member as a beneficiary under ORS 238.300, 238.305,

1 238.325[,] **or** 238A.190 [*or* 238A.400] be changed, even though the member has
2 retired and has begun receiving a retirement allowance or pension. If a
3 change of beneficiary is ordered under this paragraph, the board shall adjust
4 the anticipated benefits that would be payable to the member and the bene-
5 ficiary to ensure that the cost to the system of providing benefits to the
6 member and the new beneficiary does not exceed the cost that the system
7 would have incurred to provide benefits to the member and the original
8 beneficiary. The judgment, order or settlement may not provide for any
9 change to the option selected by the retired member under ORS 238.300,
10 238.305, 238.320, 238.325[,] **or** 238A.190 [*or* 238A.400] as to the form of the
11 retirement benefit.

12 “(e) That death benefits under ORS 238A.230 to which the alternate payee
13 has been entitled as the spouse of a member shall be available to the alter-
14 nate payee after the effective date of the judgment of annulment or dissol-
15 ution of marriage or of separation.

16 “(3) The board shall adopt rules that provide for:

17 “(a) The creation of a separate account in the name of the alternate payee
18 reflecting the judgment’s, order’s or agreement’s distribution of the member’s
19 benefits under this chapter or ORS chapter 238A;

20 “(b) The establishing of criteria to determine whether domestic relations
21 judgments, orders and agreements comply with this section; and

22 “(c) The definitions and procedures for the administration of this section.

23 “(4) An alternate payee may designate a beneficiary for the purposes of
24 death benefits payable under ORS 238.390 and 238.395. Subject to ORS
25 238A.410 (2), an alternate payee may designate a beneficiary for the purposes
26 of death benefits payable under ORS 238A.410. If the alternate payee fails to
27 designate a beneficiary for the purposes of death benefits payable under ORS
28 238.390 and 238.395, the benefits shall be paid as provided by ORS 238.390 (2).
29 If the alternate payee fails to designate a beneficiary for the purposes of
30 death benefits payable under ORS 238A.410, the benefits shall be paid as

1 provided by ORS 238A.410 (3). If a judgment, order or agreement awards an
2 interest to an alternate payee, and if the alternate payee predeceases the
3 member before the alternate payee has commenced receiving benefits, the
4 alternate payee shall be considered a member of the system who died before
5 retiring for the purposes of the death benefits provided in ORS 238.390,
6 238.395, 238A.230 and 238A.410, but for purposes of the death benefits pro-
7 vided in ORS 238.395, the alternate payee shall be considered a member of
8 the system who died before retiring only if the member would have been el-
9 igible for death benefits under ORS 238.395 had the member died at the same
10 time as the alternate payee. Payment of the death benefits to the benefici-
11 aries, estate or other persons entitled to receive the benefits under ORS
12 238.390, 238.395, 238A.230 and 238A.410, shall constitute payment in full of
13 the alternate payee's interest under the judgment, order or agreement.

14 “(5) Any increase in the retirement allowance provided to the member
15 shall increase the amounts paid to the alternate payee in the same propor-
16 tion, except that:

17 “(a) An alternate payee is not entitled to receive cost-of-living adjust-
18 ments under ORS 238.360 or any other retirement allowance increase until
19 benefits are first paid from the system on behalf of the member; and

20 “(b) Cost-of-living adjustments under ORS 238.360 or 238A.210 to the re-
21 tirement allowance paid to an alternate payee shall be calculated on the
22 basis of the amount of the alternate payee's yearly allowance or yearly pen-
23 sion or benefit, as those terms are defined in ORS 238.360 and 238A.210.

24 “(6) An alternate payee under this section is not eligible to receive the
25 benefits provided under ORS 238.410, 238.415, 238.420 and 238.440 by reason
26 of the provisions of this section.

27 “(7) An alternate payee who elects to begin receiving payments under
28 subsection (1) of this section before the member's effective date of retirement
29 is not eligible to receive any additional payment by reason of credit in the
30 system acquired by the member after the alternate payee begins to receive

1 payments.

2 “(8) Subsection (1) of this section applies only to payments made by the
3 board after the date of receipt by the board of written notice of the judg-
4 ment, order or agreement and such additional information and documenta-
5 tion as the board may prescribe.

6 “(9) Whenever the board is required to make payment to an alternate
7 payee under the provisions of this section, the board shall charge and collect
8 out of the benefits payable to the member and the alternate payee actual and
9 reasonable administrative expenses and related costs incurred by the board
10 in obtaining data and making calculations that are necessary by reason of
11 the provisions of this section. The board may not charge more than \$300 for
12 total administrative expenses and related costs incurred in obtaining data
13 or making calculations that are necessary by reason of the provisions of this
14 section. The board shall allocate expenses and costs charged under the pro-
15 visions of this subsection between the member and the alternate payee based
16 on the fraction of the benefit received by the member or alternate payee.

17 “(10) Unless otherwise provided by the judgment, order or agreement, a
18 member has no interest in the benefit payable to an alternate payee under
19 this section. Upon the death of an alternate payee, the board shall make such
20 payment to the beneficiary designated by the alternate payee as may be re-
21 quired under the form of benefit elected by the alternate payee. If a death
22 benefit is payable under ORS 238.390 or 238.395 by reason of the death of an
23 alternate payee, payment of the death benefit shall be made to the benefi-
24 cary designated by the alternate payee under ORS 238.390 (1), or as otherwise
25 provided by ORS 238.390 and 238.395.

26 “(11) As used in this section, ‘court’ means any court of appropriate ju-
27 risdiction of this or any other state or of the District of Columbia.

28 **“SECTION 39.** ORS 238.600 is amended to read:

29 “238.600. (1) A system of retirement and of benefits at retirement or death
30 for employees of public employers hereby is established and shall be known

1 as the Public Employees Retirement System. The Public Employees Retirement
2 System consists of this chapter and ORS chapter 238A **and sections 1**
3 **to 30 of this 2019 Act**. It is the intent of the Legislative Assembly that the
4 system be qualified and maintained under sections 401(a), 414(d) and 414(k)
5 of the Internal Revenue Code as a tax-qualified defined benefit governmental
6 plan.

7 “(2) If the Public Employees Retirement System is terminated, or if con-
8 tributions may no longer be made to the system, each member of the system
9 has a nonforfeitable right to the benefits that the member has accrued as of
10 the date of the termination, or as of the date that contributions may no
11 longer be made to the system, to the extent that those benefits are funded.

12 **“SECTION 40.** ORS 238.645 is amended to read:

13 “238.645. The system shall be administered, subject to the limitations of
14 this chapter, ORS chapter 238A **and sections 1 to 30 of this 2019 Act** and
15 the budget prescribed by the board, by the director provided for by ORS
16 238.630 and by a staff which the board authorizes and which the director
17 appoints. The director shall hold that position during the discretion of the
18 board and the members of the staff shall hold their respective positions
19 during the discretion of the director. No member of the staff may be removed
20 from it, however, in a manner contrary to the laws of the state regarding
21 civil service. The director shall furnish such bond as is required by the
22 board.

23 **“SECTION 41.** ORS 238.650 is amended to read:

24 “238.650. (1) Subject to the limitations of this chapter and ORS chapter
25 238A **and sections 1 to 30 of this 2019 Act**, the Public Employees Retirement
26 Board shall, from time to time, establish rules for transacting its
27 business and administering the system in accordance with the requirements
28 of ORS chapter 183.

29 “(2) All rules adopted by the board become part of the written plan doc-
30 ument of the Public Employees Retirement System for the purpose of the

1 status of the system and the Public Employees Retirement Fund as a quali-
2 fied governmental retirement plan and trust under the Internal Revenue
3 Code and under regulations adopted pursuant to the Internal Revenue Code.

4 **“SECTION 42.** ORS 238.660 is amended to read:

5 “238.660. (1) The Public Employees Retirement Fund is declared to be a
6 trust fund, separate and distinct from the General Fund, for the uses and
7 purposes set forth in this chapter and ORS chapter 238A and ORS 237.950 to
8 237.980 **and sections 1 to 30 of this 2019 Act**, and for no other use or pur-
9 pose, except that this provision shall not be deemed to amend or impair the
10 force or effect of any law of this state specifically authorizing the investment
11 of moneys from the fund. Interest earned by the fund shall be credited to the
12 fund. Except as otherwise specifically provided by law, the Public Employees
13 Retirement Board established by ORS 238.630 is declared to be the trustee
14 of the fund. Consistent with the legislative intent expressed in ORS 238.601,
15 and to the extent it is consistent with the board’s fiduciary duties, the board
16 shall give equal consideration to the interests of participating public em-
17 ployers and the interests of members. Nothing in this subsection shall be
18 construed to impose a fiduciary duty on the board to consider the interests
19 of public employers, and the board shall consider the interests of public em-
20 ployers only with respect to matters unrelated to the board’s fiduciary duties
21 as trustee of the fund.

22 “(2) Until all liabilities to members and their beneficiaries are satisfied,
23 assets of the fund may not be diverted or otherwise put to any use that is
24 not for the exclusive benefit of members and their beneficiaries. This sub-
25 section does not limit return of employer contributions for health benefits
26 in the manner provided by ORS 238.410, 238.415 and 238.420 upon satisfaction
27 of all liabilities for health benefits under those sections.

28 “(3) The State of Oregon and other public employers that make contribu-
29 tions to the fund have no proprietary interest in the fund or in the contri-
30 butions made to the fund by them. The state and other public employers

1 disclaim any right to reclaim those contributions and waive any right of
2 reclamation they may have in the fund. This subsection does not prohibit
3 alteration or refund of employer contributions if the alteration or refund is
4 authorized under this chapter or ORS chapter 238A and is due to erroneous
5 payment or decreased liability for employer contributions under the system.
6 This subsection does not prohibit the offset of contributions to the individual
7 account program under ORS 238.229 (5).

8 “(4) The board may accept gifts of money or other property from any
9 source, given for the uses and purposes of the system. Money so received
10 shall be paid into the fund. Money or other property so received shall be
11 used for the purposes for which received. Unless otherwise prescribed by the
12 source from which the money or other property is received, the money shall
13 be considered as income of the fund and the other property shall be retained,
14 managed and disposed of as are investments of the fund.

15 “(5) All moneys paid into the fund shall be deposited with the State
16 Treasurer, who shall be custodian of the fund and pay all warrants drawn
17 on it in compliance with law. No such warrant shall be paid until the claim
18 for which it is drawn is first approved by the director or designee and oth-
19 erwise audited and verified as required by law. Monthly, each beneficiary’s
20 gross benefit shall be calculated; applicable deductions made for taxes, in-
21 surance and other withholdings; and the net amount paid to the beneficiary,
22 by check or by electronic funds transfer (EFT) to the beneficiary’s bank. A
23 deduction summary shall be made, by type, and a check issued for the ag-
24 gregate of each type for transmittal to the appropriate taxing jurisdiction,
25 vendor or institution. A voucher shall be prepared and transmitted to the
26 Oregon Department of Administrative Services for reimbursement of the
27 checking account, and the department shall draw a warrant on the State
28 Treasurer, payable to the Public Employees Retirement System, for the
29 amount thereof.

30 “(6) Any warrant, check or order for the payment of benefits or refunds

1 under the system out of the fund issued by the board which is canceled, de-
2 clared void or otherwise made unpayable pursuant to law because it is out-
3 standing and unpaid for a period of more than two years, may be reissued
4 by the board without bond if the payee is located after such warrant, check
5 or order is canceled, declared void or otherwise made unpayable pursuant to
6 law.

7 “(7) All references in this chapter to checks or warrants are subject to
8 the provisions of ORS 291.001.

9 “(8) The board shall provide for an annual audit of the retirement fund
10 and for an annual report to the Legislative Assembly and to all members of,
11 retirees of, and all employers participating in, the system. The annual report
12 must contain financial statements prepared in accordance with generally
13 accepted accounting principles. The financial statements must include the
14 report of any independent auditor.

15 “(9) The board may review legislative proposals for changes in the bene-
16 fits provided under this chapter and ORS chapter 238A and may make rec-
17 ommendations to committees of the Legislative Assembly on those proposed
18 changes. In making recommendations under this subsection, the board acts
19 as a policy advisor to the Legislative Assembly and not as a fiduciary. In
20 making recommendations under this subsection on the Oregon Public Service
21 Retirement Plan established by ORS chapter 238A, the board shall seek to
22 maintain the balance between benefits and costs, and the relative risk borne
23 by employers and employees with respect to investment performance, re-
24 flected in ORS chapter 238A as in effect on January 1, 2004.

25 “(10) The board shall appoint a committee to advise the board on legis-
26 lative proposals for changes in the benefits provided under this chapter and
27 ORS chapter 238A. The committee must have an equal number of members
28 representing labor and management. No costs of reviewing legislative pro-
29 posals and making recommendations under this subsection may be charged
30 to the fund. Any member of the committee who is an active member of the

1 system shall be released by the participating public employer who employs
2 the member for the purpose of conducting the official business of the com-
3 mittee, and the wages or salary of the member may not be reduced by the
4 employer during periods that the member is released from duty for the pur-
5 pose of conducting the official business of the committee.

6 **“SECTION 43.** ORS 238.661 is amended to read:

7 “238.661. Moneys in the Public Employees Retirement Fund are contin-
8 uously appropriated to the Public Employees Retirement Board to carry out
9 the purposes of this chapter and ORS chapter 238A **and sections 1 to 30**
10 **of this 2019 Act.**

11 **“SECTION 44.** ORS 238.665 is amended to read:

12 “238.665. Contributions required by this chapter or ORS chapter 238A **or**
13 **sections 1 to 30 of this 2019 Act** to be placed in the retirement fund, and
14 interest required to be allocated to the member accounts of members of the
15 retirement system and to participating employers, shall not be included in
16 the biennial departmental budget of the board.

17 **“SECTION 45.** ORS 238.675 is amended to read:

18 “238.675. (1)(a) Any benefit payment that is payable as the result of the
19 death of a member may be transferred by the Public Employees Retirement
20 Board to another account or reserve in the fund if:

21 “(A) The total benefit payable to the beneficiaries designated by the de-
22 ceased member is less than \$250 in amount;

23 “(B) Ten years have passed since the death of the member; and

24 “(C) No claim has been made for the benefit payment.

25 “(b) Amounts transferred under this section shall be credited to accounts
26 or reserves in the fund designated by the board in its discretion.

27 “(c) The board shall establish procedures for the filing of a delayed claim
28 by a beneficiary of a deceased member who would otherwise be entitled to
29 receive a benefit payment. Delayed claims may be filed after the 10-year pe-
30 riod provided for in paragraph (a) of this subsection.

1 “(2)(a) The Public Employees Retirement Board may transfer the amount
2 credited to the member account of a former member to another account or
3 reserve in the fund if:

4 “(A) The total amount credited to the member account of the former
5 member is less than \$250;

6 “(B)(i) The membership of the person in the system has been terminated
7 under the provisions of ORS 238.095 (2) [*or*];

8 “(ii) The membership of the person in the pension program or individual
9 account program has been terminated under ORS 238A.110 or 238A.310; **or**

10 “(iii) **The membership of the person in the Tier 4 Plan has been**
11 **terminated under section 6 of this 2019 Act;** and

12 “(C) Ten years have passed since the former member ceased to be a
13 member of the system and no claim has been made for payment of the amount
14 credited to the member account of the former member.

15 “(b) Amounts transferred under this section shall be credited to reserves
16 or accounts in the fund designated by the board in its discretion.

17 “(c) The board shall establish procedures for the filing of a delayed claim
18 by a former member of the system who would otherwise be entitled to receive
19 amounts credited to the member account of the former member. Delayed
20 claims may be filed after the 10-year period provided for in paragraph (a) of
21 this subsection.

22 “**SECTION 46.** ORS 238.700 is amended to read:

23 “238.700. All provisions of ORS 238.655, 238.705, 238.710 and 238.715 hereby
24 are made applicable for enforcement of the requirements of this chapter and
25 ORS chapter 238A **and sections 1 to 30 of this 2019 Act.**

26 “**SECTION 47.** ORS 238.705 is amended to read:

27 “238.705. (1) All public employers that are members of the system shall
28 promptly and regularly remit to the Public Employees Retirement Board all
29 contributions required of them by law and furnish all reports required by the
30 board.

1 “(2) Any public employer delinquent in remitting contributions shall be
2 charged interest on the total amount of contributions due from it at the rate
3 of one percent per month or fraction thereof during which the public em-
4 ployer is delinquent. Interest so paid shall be deposited in the Public Em-
5 ployees Retirement Fund and shall be used by the board in paying
6 administrative expenses of the system.

7 “(3) If any state officer or agency fails to remit any contribution or other
8 obligation required by law, the Public Employees Retirement Board, within
9 30 days after the date the request therefor has been made by it by registered
10 mail or by certified mail with return receipt, may certify to the Oregon De-
11 partment of Administrative Services the fact of such failure and the amount
12 of the delinquent contribution or obligation, together with its request that
13 such amount be set over from funds of the delinquent officer or agency to
14 the credit of the Public Employees Retirement Fund. A copy of such certi-
15 fication and request shall be furnished the delinquent officer or agency. The
16 department shall, within 10 days after receipt of the request of the board,
17 approve the payment of such amount by the delinquent officer or agency
18 from funds allocated to the officer or agency for the current biennium and
19 draw a warrant for payment of the amount of the contribution or obligation
20 due out of funds in the State Treasury allocated to the use of the delinquent
21 officer or agency.

22 “(4) If any public employer other than a state agency fails to remit any
23 contribution or pay any other obligation due under this chapter or ORS
24 chapter 238A **or sections 1 to 30 of this 2019 Act**, the board may certify to
25 the department the fact of such failure. Upon receipt of the certification the
26 department shall withhold payment to the public employer of any revenues
27 or funds in the State Treasury in which the public employer is entitled by
28 law to share and which have been apportioned to the public employer until
29 the board certifies to the department that the failure has been remedied. The
30 board shall send a copy of each certification it makes under this subsection

1 to the public employer affected.

2 “(5) Any public employer delinquent in making reports or supplying in-
3 formation concerning its employees in the manner required by the board
4 shall be charged a penalty of the lesser of \$2,000 or one percent of the total
5 annual contributions, for each month or fraction thereof during which the
6 employer is delinquent. In addition, the board may send an auditor to the
7 office of the employer to examine its records and to obtain the necessary
8 reports, the entire cost of such audit to be paid by the delinquent employer.
9 Penalties and other charges so paid shall be used by the board in paying
10 administrative expenses of the system.

11 **“SECTION 48.** ORS 243.800 is amended to read:

12 “243.800. (1) Notwithstanding any provision of ORS chapter 238 or 238A
13 or ORS 243.910 to 243.945, the governing board of a public university listed
14 in ORS 352.002 shall establish and administer an Optional Retirement Plan
15 for administrative and academic employees of the public university. The
16 Optional Retirement Plan must be a qualified plan under the Internal Reve-
17 nue Code, capable of accepting funds transferred under subsection (7) of this
18 section without the transfer being treated as a taxable event under the
19 Internal Revenue Code, and willing to accept those funds. Retirement and
20 death benefits shall be provided under the plan by the purchase of annuity
21 contracts, fixed or variable or a combination thereof, or by contracts for in-
22 vestments in mutual funds.

23 “(2) An administrative or academic employee who is eligible to remain
24 or become a member of the Public Employees Retirement System may elect
25 to participate in the Optional Retirement Plan upon completion of:

26 “(a) Six hundred hours of employment, or the equivalent as determined
27 by the governing board; and

28 “(b) Six months of employment that is not interrupted by more than 30
29 consecutive working days.

30 “(3) An administrative or academic employee who is eligible to remain

1 or become a member of the Public Employees Retirement System, including
2 an administrative or academic employee who previously participated in the
3 Optional Retirement Plan because of employment in a position classified as
4 a post-doctoral scholar position under ORS 350.370, may make an irrevocable
5 election to participate in the Optional Retirement Plan within six months
6 after being employed. An election under this subsection is effective on the
7 first day of the month following the completion of the requirements of sub-
8 section (2) of this section.

9 “(4) An administrative or academic employee who is eligible to remain
10 or become a member of the Public Employees Retirement System and who
11 does not elect to participate in the Optional Retirement Plan:

12 “(a) Remains or becomes a member of the Public Employees Retirement
13 System in accordance with ORS chapters 238 and 238A; or

14 “(b) Continues to be assisted by the governing board under ORS 243.920
15 if the employee is being so assisted.

16 “(5) Except as provided in subsection (6) of this section, employees who
17 elect to participate in the Optional Retirement Plan are ineligible for active
18 membership in the Public Employees Retirement System or for any assistance
19 by the governing board under ORS 243.920 as long as those employees are
20 employed in the public university and the plan is in effect.

21 “(6)(a) An administrative or academic employee who elects to participate
22 in the Optional Retirement Plan, who has creditable service under ORS
23 chapter 238 as defined by ORS 238.005 and who is not vested shall be con-
24 sidered by the Public Employees Retirement Board to be a terminated mem-
25 ber under the provisions of ORS 238.095 as of the effective date of the
26 election, and the amount credited to the member account of the member shall
27 be transferred directly to the Optional Retirement Plan by the Public Em-
28 ployees Retirement Board in the manner provided by subsection (7) of this
29 section.

30 “(b) An administrative or academic employee who elects to participate in

1 the Optional Retirement Plan, who has creditable service under ORS chapter
2 238 as defined by ORS 238.005 and who is vested shall be considered to be
3 an inactive member by the Public Employees Retirement Board and shall
4 retain all the rights, privileges and options under ORS chapter 238 unless the
5 employee makes a written request to the Public Employees Retirement Board
6 for a transfer of the amounts credited to the member account of the member
7 to the Optional Retirement Plan. A request for a transfer must be made at
8 the time the member elects to participate in the Optional Retirement Plan.
9 Upon receiving the request, the Public Employees Retirement Board shall
10 transfer all amounts credited to the member account of the member directly
11 to the Optional Retirement Plan, and shall terminate all rights, privileges
12 and options of the employee under ORS chapter 238.

13 “(c) An administrative or academic employee who elects to participate in
14 the Optional Retirement Plan, and who is not a vested member of the pension
15 program of the Oregon Public Service Retirement Plan as described in ORS
16 238A.115 on the date that the election becomes effective, shall be considered
17 to be a terminated member of the pension program by the Public Employees
18 Retirement Board as of the effective date of the election.

19 “(d) An administrative or academic employee who elects to participate in
20 the Optional Retirement Plan, and who is a vested member of the pension
21 program of the Oregon Public Service Retirement Plan as described in ORS
22 238A.115 on the date that the election becomes effective, shall be considered
23 an inactive member of the pension program by the Public Employees Re-
24 tirement Board as of the effective date of the election. An employee who is
25 subject to the provisions of this paragraph retains all the rights, privileges
26 and options of an inactive member of the pension program. If the actuarial
27 equivalent of the employee’s benefit under the pension program at the time
28 that the election becomes effective is \$5,000 or less, the employee may make
29 a written request to the Public Employees Retirement Board for a transfer
30 of the employee’s interest under the pension program to the Optional Re-

1 tirement Plan. The request must be made at the time the member elects to
2 participate in the Optional Retirement Plan. Upon receiving the request, the
3 Public Employees Retirement Board shall transfer the amount determined to
4 be the actuarial equivalent of the employee's benefit under the pension pro-
5 gram directly to the Optional Retirement Plan, and shall terminate the
6 membership of the employee in the pension program.

7 “(e) An administrative or academic employee who elects to participate in
8 the Optional Retirement Plan, and who is a vested member of the individual
9 account program of the Oregon Public Service Retirement Plan as described
10 in ORS 238A.320 on the date that the election becomes effective, shall be
11 considered an inactive member of the individual account program by the
12 Public Employees Retirement Board as of the effective date of the election.
13 An employee who is subject to the provisions of this paragraph retains all
14 the rights, privileges and options of an inactive member of the individual
15 account program. An administrative or academic employee who elects to
16 participate in the Optional Retirement Plan, and who is a member of the
17 individual account program of the Oregon Public Service Retirement Plan,
18 may make a written request to the Public Employees Retirement Board that
19 all amounts in the member's employee account, rollover account and em-
20 ployer account, to the extent the member is vested in those accounts under
21 ORS 238A.320, be transferred to the Optional Retirement Plan. The request
22 must be made at the time the member elects to participate in the Optional
23 Retirement Plan. Upon receiving the request, the Public Employees Retire-
24 ment Board shall transfer the amounts directly to the Optional Retirement
25 Plan, and shall terminate the membership of the employee in the individual
26 account program upon making the transfer.

27 **“(f) An administrative or academic employee who elects to partic-**
28 **ipate in the Optional Retirement Plan, and who is a vested member**
29 **of the Tier 4 Plan as described in section 7 of this 2019 Act on the date**
30 **that the election becomes effective, shall be considered an inactive**

1 **member of the Tier 4 Plan by the Public Employees Retirement Board**
2 **as of the effective date of the election. An employee who is subject to**
3 **the provisions of this paragraph retains all the rights, privileges and**
4 **options of an inactive member of the Tier 4 Plan. An administrative**
5 **or academic employee who elects to participate in the Optional Re-**
6 **irement Plan and who is a member of the Tier 4 Plan may make a**
7 **written request to the Public Employees Retirement Board that all**
8 **amounts in the member’s employee account, rollover account and**
9 **employer account, to the extent the member is vested in those ac-**
10 **counts under section 7 of this 2019 Act, be transferred to the Optional**
11 **Retirement Plan. The request must be made at the time the member**
12 **elects to participate in the Optional Retirement Plan. Upon receiving**
13 **the request, the Public Employees Retirement Board shall transfer the**
14 **amounts directly to the Optional Retirement Plan, and shall terminate**
15 **the membership of the employee in the Tier 4 Plan upon making the**
16 **transfer.**

17 “~~[(f)]~~ **(g)** Notwithstanding paragraphs (b), (d) [*and*], (e) **and (f)** of this
18 subsection, the Public Employees Retirement Board may not treat any em-
19 ployee as an inactive member under the provisions of this subsection for the
20 purpose of receiving any benefit under ORS chapter 238 or 238A that requires
21 that the employee be separated from all service with participating public
22 employers and with employers who are treated as part of a participating
23 public employer’s controlled group under the federal laws and rules govern-
24 ing the status of the Public Employees Retirement System and the Public
25 Employees Retirement Fund as a qualified governmental retirement plan and
26 trust.

27 “(7) Any amounts transferred from the Public Employees Retirement Fund
28 under subsection (6) of this section shall be transferred directly to the Op-
29 tional Retirement Plan by the Public Employees Retirement Board and may
30 not be made available to the employee.

1 “(8) An employee participating in the Optional Retirement Plan who was
2 hired before July 1, 2014, shall contribute monthly an amount equal to the
3 percentage of the employee’s salary that the employee would otherwise have
4 contributed as an employee contribution to the Public Employees Retirement
5 System if the employee had not elected to participate in the Optional Re-
6 tirement Plan.

7 “(9) For an employee participating in the Optional Retirement Plan who
8 was hired before July 1, 2014, the governing board shall contribute monthly
9 to the Optional Retirement Plan the percentage of salary of the employee
10 equal to the percentage of salary that would otherwise have been contributed
11 as an employer contribution on behalf of the employee to the Public Em-
12 ployees Retirement System, before any offset under ORS 238.229 (2), if the
13 employee had not elected to participate in the Optional Retirement Plan.

14 “(10) For an employee participating in the Optional Retirement Plan who
15 was hired on or after July 1, 2014, the governing board shall contribute
16 monthly to the Optional Retirement Plan:

17 “(a) Eight percent of the employee’s salary; and

18 “(b) A percentage of the employee’s salary equal to the percentage of
19 salary contributed by the employee to the public university’s Tax-Deferred
20 Investment 403(b) Plan under ORS 243.820, up to four percent of the
21 employee’s salary in each pay period.

22 “(11)(a) Unless otherwise prohibited by law, a person employed in a posi-
23 tion classified as a post-doctoral scholar position under ORS 350.370 is an
24 academic employee under subsection (1) of this section and becomes a par-
25 ticipant in the Optional Retirement Plan when the person participates in the
26 public university’s Tax-Deferred Investment 403(b) Plan under ORS 243.820.

27 “(b) Participation in the Optional Retirement Plan under this subsection
28 becomes effective on the first day of the month following the later of:

29 “(A) Enrollment in the public university’s Tax-Deferred Investment 403(b)
30 Plan under ORS 243.820; or

1 “(B) Completion of:

2 “(i) Six hundred hours of employment, or the equivalent as determined
3 by the governing board; and

4 “(ii) Six months of employment that is not interrupted by more than 30
5 consecutive working days.

6 “(c) For a post-doctoral scholar participating in the Optional Retirement
7 Plan, the governing board shall contribute monthly to the Optional Retire-
8 ment Plan a percentage of the post-doctoral scholar’s salary equal to the
9 percentage of salary contributed by the post-doctoral scholar to the public
10 university’s Tax-Deferred Investment 403(b) Plan under ORS 243.820, up to
11 four percent of the post-doctoral scholar’s salary in each pay period.

12 “(d) A post-doctoral scholar is an academic employee who elects to par-
13 ticipate in the Optional Retirement Plan for purposes of subsection (6) of this
14 section.

15 “(e) Subsections (8) to (10) of this section do not apply to a post-doctoral
16 scholar participating in the Optional Retirement Plan.

17 “(12) Both employee and employer contributions to an Optional Retire-
18 ment Plan shall be remitted directly to the companies that have issued an-
19 nuity contracts to the participating employees or directly to the mutual
20 funds.

21 “(13) Benefits under the Optional Retirement Plan are payable to em-
22 ployees who elect to participate in the plan and their beneficiaries by the
23 selected annuity provider or mutual fund in accordance with the terms of the
24 annuity contracts or the terms of the contract with the mutual fund. Em-
25 ployees electing to participate in the Optional Retirement Plan agree that
26 benefits payable under the plan are not obligations of the State of Oregon
27 or of the Public Employees Retirement System.

28 **“SECTION 49.** ORS 341.551 is amended to read:

29 “341.551. (1) Notwithstanding any provision of ORS chapter 238 or 238A,
30 the Office of Community Colleges and Workforce Development may establish

1 and administer an optional retirement plan for administrative employees of
2 community college districts who are eligible for membership in the Public
3 Employees Retirement System. Any community college district may partic-
4 ipate in the plan by giving written notice to the office.

5 “(2) An administrative employee may make an election to participate in
6 the optional retirement plan if the community college district that employs
7 the employee is participating in the plan. The election must be made in the
8 following manner:

9 “(a) An administrative employee who is an active member of the Public
10 Employees Retirement System may make an election to participate in the
11 plan within 180 days after the community college district commences partic-
12 ipation in the plan, effective on the first day of the month following the
13 election.

14 “(b) An administrative employee who is hired after the community college
15 district commences participation in the plan may make an election to par-
16 ticipate in the plan within the first six months of employment, effective on
17 the first day of the month following six full months of employment.

18 “(3) An administrative employee who does not elect to participate in the
19 optional retirement plan remains or becomes a member of the Public Em-
20 ployees Retirement System in accordance with ORS chapters 238 and 238A.

21 “(4) An administrative employee may elect to participate in the optional
22 retirement plan only if at the time the election becomes effective the em-
23 ployee is not concurrently employed in a position with any participating
24 public employer other than the community college district in a position that
25 entitles the employee to membership in the Public Employees Retirement
26 System. Except as provided in subsection (9) of this section, employees who
27 elect to participate in the optional retirement plan are ineligible for active
28 membership in the Public Employees Retirement System for as long as those
29 employees are employed by a community college district that participates in
30 the plan, whether by reason of employment by the district or any other par-

1 ticipating public employer.

2 “(5)(a) An administrative employee who elects to participate in the op-
3 tional retirement plan, who has creditable service under ORS chapter 238 as
4 defined by ORS 238.005 and who is not vested shall be considered by the
5 Public Employees Retirement Board to be a terminated member under the
6 provisions of ORS 238.095 as of the effective date of the election, and the
7 amount credited to the member account of the member shall be transferred
8 directly to the optional retirement plan by the Public Employees Retirement
9 Board in the manner provided by subsection (6) of this section.

10 “(b) An administrative employee who elects to participate in the optional
11 retirement plan, who has creditable service under ORS chapter 238 as defined
12 by ORS 238.005 and who is vested shall be considered to be an inactive
13 member by the Public Employees Retirement Board and shall retain all the
14 rights, privileges and options under ORS chapter 238 unless the employee
15 makes a written request to the Public Employees Retirement Board for a
16 transfer of the amounts credited to the member account of the member to the
17 optional retirement plan. A request for a transfer must be made at the time
18 the member elects to participate in the optional retirement plan. Upon re-
19 ceiving the request, the Public Employees Retirement Board shall transfer
20 all amounts credited to the member account of the member directly to the
21 optional retirement plan and shall terminate all rights, privileges and
22 options of the employee under ORS chapter 238.

23 “(c) An administrative employee who elects to participate in the optional
24 retirement plan and who is not a vested member of the pension program of
25 the Oregon Public Service Retirement Plan as described in ORS 238A.115 on
26 the date that the election becomes effective shall be considered to be a ter-
27 minated member of the pension program by the Public Employees Retirement
28 Board as of the effective date of the election.

29 “(d) An administrative employee who elects to participate in the optional
30 retirement plan and who is a vested member of the pension program of the

1 Oregon Public Service Retirement Plan as described in ORS 238A.115 on the
2 date that the election becomes effective shall be considered an inactive
3 member of the pension program by the Public Employees Retirement Board
4 as of the effective date of the election. An employee who is subject to the
5 provisions of this paragraph retains all the rights, privileges and options of
6 an inactive member of the pension program. If the actuarial equivalent of the
7 employee's benefit under the pension program at the time that the election
8 becomes effective is \$5,000 or less, the employee may make a written request
9 to the Public Employees Retirement Board for a transfer of the employee's
10 interest under the pension program to the optional retirement plan. The re-
11 quest must be made at the time the member elects to participate in the op-
12 tional retirement plan. Upon receiving the request, the Public Employees
13 Retirement Board shall transfer the amount determined to be the actuarial
14 equivalent of the employee's benefit under the pension program directly to
15 the optional retirement plan and shall terminate the membership of the em-
16 ployee in the pension program.

17 “(e) An administrative employee who elects to participate in the optional
18 retirement plan and who is a vested member of the individual account pro-
19 gram of the Oregon Public Service Retirement Plan as described in ORS
20 238A.320 on the date that the election becomes effective shall be considered
21 an inactive member of the individual account program by the Public Em-
22 ployees Retirement Board as of the effective date of the election. An em-
23 ployee who is subject to the provisions of this paragraph retains all the
24 rights, privileges and options of an inactive member of the individual ac-
25 count program. An administrative employee who elects to participate in the
26 optional retirement plan and who is a member of the individual account
27 program of the Oregon Public Service Retirement Plan may make a written
28 request to the Public Employees Retirement Board that all amounts in the
29 member's employee account, rollover account and employer account, to the
30 extent the member is vested in those accounts under ORS 238A.320, be

1 transferred to the optional retirement plan. The request must be made at the
2 time the member elects to participate in the optional retirement plan. Upon
3 receiving the request, the Public Employees Retirement Board shall transfer
4 the amounts directly to the optional retirement plan and shall terminate the
5 membership of the employee in the individual account program.

6 **“(f) An administrative employee who elects to participate in the**
7 **optional retirement plan and who is a vested member of the Tier 4**
8 **Plan as described in section 7 of this 2019 Act on the date that the**
9 **election becomes effective shall be considered an inactive member of**
10 **the Tier 4 Plan by the Public Employees Retirement Board as of the**
11 **effective date of the election. An employee who is subject to the pro-**
12 **visions of this paragraph retains all the rights, privileges and options**
13 **of an inactive member of the Tier 4 Plan. An administrative employee**
14 **who elects to participate in the optional retirement plan and who is a**
15 **member of the Tier 4 Plan may make a written request to the Public**
16 **Employees Retirement Board that all amounts in the member’s em-**
17 **ployee account, rollover account and employer account, to the extent**
18 **the member is vested in those accounts under section 7 of this 2019**
19 **Act, be transferred to the optional retirement plan. The request must**
20 **be made at the time the member elects to participate in the optional**
21 **retirement plan. Upon receiving the request, the Public Employees**
22 **Retirement Board shall transfer the amounts directly to the optional**
23 **retirement plan and shall terminate the membership of the employee**
24 **in the Tier 4 Plan.**

25 **“[(f)] (g) Notwithstanding paragraphs (b), (d) [and], (e) and (f) of this**
26 **subsection, the Public Employees Retirement Board shall not treat any em-**
27 **ployee as an inactive member under the provisions of this subsection for the**
28 **purpose of receiving any benefit under ORS chapter 238 or 238A that requires**
29 **that the employee be separated from all service with participating public**
30 **employers and with employers who are treated as part of a participating**

1 public employer's controlled group under the federal laws and rules govern-
2 ing the status of the Public Employees Retirement System and the Public
3 Employees Retirement Fund as a qualified governmental retirement plan and
4 trust.

5 “(6) Any amounts transferred from the Public Employees Retirement Fund
6 under subsection (5) of this section shall be transferred directly to the op-
7 tional retirement plan by the Public Employees Retirement Board and shall
8 not be made available to the employee.

9 “(7) An employee participating in the optional retirement plan shall con-
10 tribute monthly an amount equal to the percentage of the employee's salary
11 that the employee would otherwise have contributed as an employee contri-
12 bution to the Public Employees Retirement System if the employee had not
13 elected to participate in the optional retirement plan.

14 “(8) A participating community college district shall contribute monthly
15 to the optional retirement plan the percentage of salary for each employee
16 participating in the plan that is equal to the percentage of salary that is
17 required to be made as the employer contribution under ORS 238A.220, less
18 any contributions made by reason of unfunded liabilities. The district may
19 make contributions under this subsection only during periods of time in
20 which the employee would be eligible for membership in the Public Employ-
21 ees Retirement System if the employee had not elected to participate in the
22 optional retirement plan.

23 “(9) An administrative employee who elects to participate in the optional
24 retirement plan may make an election to withdraw from the plan. An em-
25 ployee may make an election under this subsection only once. Upon with-
26 drawing from the plan:

27 “(a) All contributions made to the plan before the effective date of the
28 withdrawal remain credited to the employee;

29 “(b) The employee becomes a member of the Public Employees Retirement
30 System under ORS chapter 238A if the member meets all requirements for

1 membership under ORS chapter 238A; and

2 “(c) The employee is barred from ever again electing to participate in the
3 optional retirement plan.

4 “(10) For the purposes of this section, ‘administrative employee’ means a
5 president, vice president or dean, or a person holding a position that is the
6 equivalent of a president, vice president or dean.

7

8 **“SIDE ACCOUNTS**

9

10 **“SECTION 50.** Section 3b, chapter 105, Oregon Laws 2018, is amended to
11 read:

12 **“Sec. 3b. (1)** If a participating public employer makes a lump sum pay-
13 ment from moneys not borrowed by the employer to an account established
14 under ORS 238.229 in an amount equal to or greater than \$10 million, the
15 Public Employees Retirement Board shall allow the participating public em-
16 ployer to choose an amortization period of six years, 10 years, 16 years or
17 20 years for the use of the lump sum payment to offset contributions to the
18 system that the public employer would otherwise be required to make for the
19 liabilities against which the lump sum payment is applied.

20 **“(2)(a) The board shall allow a participating public employer making**
21 **a lump sum payment under this section to choose the year in which**
22 **to begin to use the lump sum payment to offset contributions to the**
23 **system that the public employer would otherwise be required to make**
24 **for the liabilities against which the lump sum payment is applied. The**
25 **board shall begin using the lump sum payment on July 1 of the year**
26 **chosen under this subsection, with the beginning contribution offset**
27 **rate based on the actuarial report under ORS 238.605 most recently**
28 **published as of the date chosen by the public employer.**

29 **“(b) Notwithstanding paragraph (a) of this subsection, the board**
30 **may, after consultation with the participating public employer, begin**

1 using a lump sum payment to offset contributions in an earlier year
2 than the year chosen by the public employer under this section to
3 ensure that the period for using the lump sum payment, including
4 earnings accrued, will end no later than 20 years after the date of the
5 actuarial report under ORS 238.605 for the year the lump sum payment
6 is made.

7 “(c) A lump sum payment for which a participating public employer
8 chooses when to begin to use the lump sum payment to offset contri-
9 butions under this subsection is not a qualifying lump sum payment
10 for purposes of section 2, chapter 105, Oregon Laws 2018.

11 “(d) In lieu of the expenses authorized under ORS 238.229 (3), the
12 board may charge a participating public employer expenses for ad-
13 ministration of an account as provided by this subsection in an
14 amount established by the board by rule.

15 “SECTION 51. Section 3b, chapter 105, Oregon Laws 2018, as amended
16 by section 50 of this 2019 Act, is amended to read:

17 “**Sec. 3b.** [(1)] If a participating public employer makes a lump sum pay-
18 ment from moneys not borrowed by the employer to an account established
19 under ORS 238.229 in an amount equal to or greater than \$10 million, the
20 Public Employees Retirement Board shall allow the participating public em-
21 ployer to choose an amortization period of six years, 10 years, 16 years or
22 20 years for the use of the lump sum payment to offset contributions to the
23 system that the public employer would otherwise be required to make for the
24 liabilities against which the lump sum payment is applied.

25 “[2)(a) *The board shall allow a participating public employer making a*
26 *lump sum payment under this section to choose the year in which to begin to*
27 *use the lump sum payment to offset contributions to the system that the public*
28 *employer would otherwise be required to make for the liabilities against which*
29 *the lump sum payment is applied. The board shall begin using the lump sum*
30 *payment on July 1 of the year chosen under this subsection, with the beginning*

1 contribution offset rate based on the actuarial report under ORS 238.605 most
2 recently published as of the date chosen by the public employer.]

3 “[b) Notwithstanding paragraph (a) of this subsection, the board may, after
4 consultation with the participating public employer, begin using a lump sum
5 payment to offset contributions in an earlier year than the year chosen by the
6 public employer under this section to ensure that the period for using the lump
7 sum payment, including earnings accrued, will end no later than 20 years after
8 the date of the actuarial report under ORS 238.605 for the year the lump sum
9 payment is made.]

10 “[c) A lump sum payment for which a participating public employer
11 chooses when to begin to use the lump sum payment to offset contributions
12 under this subsection is not a qualifying lump sum payment for purposes of
13 section 2, chapter 105, Oregon Laws 2018.]

14 “[d) In lieu of the expenses authorized under ORS 238.229 (3), the board
15 may charge a participating public employer expenses for administration of an
16 account as provided by this subsection in an amount established by the board
17 by rule.]

18

19 **“PENSION OBLIGATION BONDS**

20

21 **“SECTION 52. Section 53 of this 2019 Act is added to and made a**
22 **part of ORS 238.692 to 238.698.**

23 **“SECTION 53. (1) Before a public body, or an intergovernmental**
24 **entity formed pursuant to ORS 238.695, may authorize the issuance of**
25 **bonds under ORS 238.694, the public body or intergovernmental entity**
26 **must first:**

27 **“(a) Obtain a statistically based assessment from an independent**
28 **economic or financial consulting firm regarding the likelihood that**
29 **investment returns on bond proceeds will exceed the interest cost of**
30 **the bonds under various market conditions; and**

1 **“(b) Make a report available to the general public that:**
2 **“(A) Describes the results of the assessment; and**
3 **“(B) Discloses whether the public body or intergovernmental entity**
4 **has retained the services of an independent SEC-registered advisor.**

5 **“(2) The public body or intergovernmental entity shall transmit the**
6 **assessment to the State Treasurer at least 30 days before issuing the**
7 **bonds.**

8 **“(3) The State Treasurer shall provide to the State Debt Policy Ad-**
9 **visory Commission an annual report on bonds issued under ORS**
10 **238.694. The report must describe each bond issuance under ORS**
11 **238.694 that took place on or after the effective date of this 2019 Act**
12 **and that remains outstanding, including, for each issuance:**

13 **“(a) The actual interest rate owed over the term of the bonds;**

14 **“(b) The projected rate of return on the bond proceeds, as deter-**
15 **mined by the assessment required under subsection (1) of this section;**
16 **and**

17 **“(c) The actual rate of return on the bond proceeds in the previous**
18 **fiscal year and the cumulative rate of return on the bond proceeds.**

19 **“(4) As used in this section, ‘independent SEC-registered advisor’**
20 **has the meaning given the term ‘independent registered municipal**
21 **advisor’ in 17 C.F.R. 240.15Ba1-1, as amended.**

22 **“SECTION 54. ORS 238.694 is amended to read:**

23 **“238.694. (1) The Legislative Assembly finds that authorizing issuance of**
24 **revenue bonds to finance pension liabilities may reduce the cost of public**
25 **pensions to taxpayers and that the reduction of those costs to taxpayers is**
26 **a matter of statewide concern.**

27 **“(2) Notwithstanding the limitation on indebtedness in ORS 287A.105 or**
28 **any other limitation on indebtedness or borrowing under state or local law,**
29 **for the purpose of obtaining funds to pay the pension liability of a public**
30 **body, the governing body of a public body may authorize and cause the is-**

1 suance of revenue bonds under ORS chapter 287A, **subject to section 53 of**
2 **this 2019 Act.**

3 “(3) The governing body of a public body may pledge the full faith and
4 credit and taxing power of the public body to the payment of the principal
5 and interest on bonds issued under ORS 238.692 to 238.698, and any premium
6 on those bonds.

7 “(4) Unless the charter of a county provides a lower limit, a county may
8 issue revenue bonds to finance pension liabilities in an amount that does not
9 exceed five percent of the real market value of the taxable property within
10 the boundaries of the county.

11 “(5) Revenue bonds authorized under this section need not comply with
12 the procedure specified in ORS 287A.150.

13 “(6) A public body that issues revenue bonds under this section may also
14 issue revenue bonds for the purpose of refunding the bonds.

15 “(7) A public body may enter into indentures or other agreements with
16 trustees or escrow agents for the issuance, administration or payment of
17 bonds authorized under this section.

18 **“SECTION 55.** ORS 238.695 is amended to read:

19 “238.695. (1) Public bodies may enter into intergovernmental agreements
20 for the collective issuance, administration or payment of bonds authorized
21 under ORS 238.694. An agreement for collective issuance, administration or
22 payment of bonds under this subsection may provide for the contribution and
23 pooling of the assets of the public bodies as security for the bonds, and may
24 make provisions for such other matters as the public bodies determine con-
25 venient. Notwithstanding ORS 190.080, any intergovernmental entity created
26 by public bodies under this section shall have the power to issue bonds as
27 described in ORS 238.694, **subject to section 53 of this 2019 Act.** The bonds
28 may be issued and sold as parity bonds, issued and sold individually or issued
29 and sold in such combinations or forms as determined to be appropriate by
30 the public bodies.

1 “(2) Proceeds of bonds sold under an intergovernmental agreement entered
2 into under this section, and any other funds or assets of a public body, to-
3 gether with interest or earnings on the proceeds, funds and assets, may be
4 consolidated into one or more funds or accounts and may be pledged to the
5 holders of the bonds.

6 “(3) Public bodies may enter into indentures or other agreements with
7 trustees or escrow agents for the issuance, administration or payment of
8 bonds pursuant to an intergovernmental agreement entered into under this
9 section.

10 “(4) The State Treasurer may cooperate with, assist and provide recom-
11 mendations to public bodies, and any intergovernmental entity created by
12 public bodies under this section, relating to all matters involved in the is-
13 suance, administration and payment of bonds. Any expenses incurred by the
14 State Treasurer in providing assistance to public bodies under this section
15 may be paid as an administrative expense of the public body from the pro-
16 ceeds of the bonds issued with the assistance of the State Treasurer.

17 **“SECTION 56.** ORS 238.698 is amended to read:

18 “238.698. (1) A public body, or a group of public bodies that enter into an
19 intergovernmental agreement under ORS 238.695, that receives funds from
20 any state agency may enter into a funds diversion agreement with the state
21 agency for the purpose of paying the principal and interest on bonds issued
22 under ORS 238.692 to 238.698, and any premium on those bonds. A diversion
23 agreement entered into under this section must provide that:

24 “(a) Moneys payable to the public body or group of public bodies by the
25 state agency from appropriations from the General Fund or any other source
26 of moneys will be paid directly to a debt service trust fund established under
27 ORS 238.696 in amounts equal to the debt service owed by the public body
28 or group of public bodies;

29 “(b) The state agency must pay the amounts required under the funds di-
30 version agreement to the debt service trust fund established under ORS

1 238.696 pursuant to the schedule specified in the agreement before paying any
2 other amounts to the public body or group of public bodies;

3 “(c) The agreement is irrevocable; and

4 “(d) The agreement will remain in effect until all the bonds issued by the
5 public body or under the intergovernmental agreement are mature or re-
6 deemed.

7 **“(2) A school district, education service district or public charter**
8 **school may not enter into a funds diversion agreement to divert more**
9 **than the amount of funds received by the district or public charter**
10 **school from the State School Fund.**

11 “[2] (3) If for any reason a state agency that has entered into a funds
12 diversion agreement is not able to pay moneys to a debt service trust fund
13 as contemplated by the agreement, the state agency shall give notice to the
14 public body or group of public bodies within 30 days after the state agency
15 is aware that the moneys will not be paid.

16 “[3] (4) Nothing in this section, or in any funds diversion agreement
17 entered into by a state agency under this section, may in any manner obli-
18 gate the state or any state agency:

19 “(a) To pay any amount that a public body is not otherwise entitled to
20 receive under law; or

21 “(b) To pay any principal or interest on bonds issued under ORS 238.692
22 to 238.698.

23

24 **“AMORTIZATION OF UNFUNDED ACTUARIAL LIABILITY**

25

26 **“SECTION 57. In the year 2019, the Public Employees Retirement**
27 **Board shall determine the liabilities of the Public Employees Retire-**
28 **ment System attributable to the benefits to be provided to members**
29 **who established membership in the system before August 29, 2003, and**
30 **shall set the amount of contributions to be made by participating**

1 public employers, and by other public employers that are required to
2 make contributions on behalf of members, to ensure that those liabil-
3 ities will be funded 22 years after the date on which the determination
4 is made.

5 **“SECTION 58.** Section 57 of this 2019 Act is repealed on January 2,
6 2020.

7
8 **“EMPLOYEE CHOICE**

9
10 **“SECTION 59.** Section 2, chapter 118, Oregon Laws 2018, is amended to
11 read:

12 **“Sec. 2.** (1) Except as provided in subsection [(6)] (5) of this section, the
13 Public Employees Retirement Board, in consultation with the office of the
14 State Treasurer, shall adopt rules providing that if the Oregon Investment
15 Council invests the assets of the individual account program in multiple risk
16 categories depending on the characteristics of an individual member, a
17 member of the individual account program may elect to have the moneys in
18 the member’s individual accounts established under ORS 238A.350 deposited
19 into an investment option approved by the council.

20 “(2) A member may make an election under this section once per calendar
21 year. The board shall establish by rule the date by which a member must
22 make an election under this section in order for the election to become ef-
23 fective on January 1 of the following calendar year.

24 “[3] *Subject to such direction and oversight as may be provided by the*
25 *Legislative Assembly, the board shall take all steps necessary to develop and*
26 *implement the information technology systems needed to implement and carry*
27 *out this section.*]

28 “[4] *The board may contract with a private provider for purposes of im-*
29 *plementing this section. The board is not subject to the provisions of ORS*
30 *chapter 279A or 279B in awarding a contract under the provisions of this*

1 subsection. The board shall establish procedures for inviting proposals and
2 awarding contracts under this subsection.]

3 “(3) The board shall give each member of the individual account
4 program a disclosure statement in writing that contains information
5 regarding the investment options approved under this section, includ-
6 ing the risk and return characteristics of the investment options, that
7 members should consider when making an investment decision for
8 their funds.

9 “[5] (4) The board may adopt rules as necessary to implement this sec-
10 tion, which may include rules to create a separate trust or subtrust to
11 hold moneys that are subject to members’ investment choice and di-
12 rection, but the council and the office of the State Treasurer retain au-
13 thority over investment decisions required to implement this section.

14 “[6] (5) The board may not adopt rules under subsection (1) of this sec-
15 tion that violate state or federal laws or regulations.

16 “**SECTION 60.** Section 3, chapter 118, Oregon Laws 2018, is amended to
17 read:

18 “**Sec. 3.** The Public Employees Retirement Board shall allow members of
19 the individual account program to make an election under section 2, [*of this*
20 *2018 Act*] **chapter 118, Oregon Laws 2018**, that becomes effective on Janu-
21 ary 1, [2019] **2021**.

22 “**SECTION 61.** Section 62 of this 2019 Act is added to and made a
23 part of ORS chapter 238A.

24 “**SECTION 62.** The state, the State Treasurer, the Oregon Invest-
25 ment Council and the Public Employees Retirement Board, and their
26 officers or employees, are not liable in a civil action or otherwise, for
27 any losses suffered by a member because of a member’s election of an
28 investment option under section 2, chapter 118, Oregon Laws 2018.

29 “**SECTION 63.** Section 4, chapter 118, Oregon Laws 2018, is repealed.

30

1 employed under this section.

2 “(5) Employment under this section does not affect the status of a
3 person as a retired member of the system and a recipient of retirement
4 benefits under this chapter.

5 “SECTION 66. Section 67 of this 2019 Act is added to and made a
6 part of ORS chapter 238A.

7 “SECTION 67. (1) Notwithstanding ORS 238A.245 and subject to the
8 limitations in this section, during calendar year 2020, 2021, 2022, 2023
9 or 2024, a participating public employer may employ any retired
10 member without limitation on the hours worked by the retired mem-
11 ber if the administrative head of the public employer is satisfied that
12 the employment is in the public interest. The Public Employees Re-
13 tirement Board shall continue making pension payments to a retired
14 member of the pension program who is reemployed under this section.

15 “(2) A public employer that employs a retired member during cal-
16 endar year 2020, 2021, 2022, 2023 or 2024 shall contribute to the board
17 the percentage of the member’s wages that would have been contrib-
18 uted to the board under ORS 238A.220 if the member were an active
19 member of the Public Employees Retirement System. Employer con-
20 tributions made under this section are in addition to employer con-
21 tributions made under ORS 238A.220. The board shall apply
22 contributions made by a public employer under this subsection against
23 the liabilities of the public employer. The board shall adopt rules gov-
24 erning payments made under this subsection.

25 “(3) A retired member who is receiving old-age, survivors or disa-
26 bility insurance benefits under the federal Social Security Act may be
27 employed during calendar year 2020, 2021, 2022, 2023 or 2024 for no more
28 than the number of hours for which the salary equals the maximum
29 allowed for receipt of the full amount of those benefits to which the
30 person is entitled.

1 returned to the service of the employer within one year of the date of being
2 otherwise than dishonorably discharged and remained in that employment
3 until having established membership in the Public Employees Retirement
4 System.

5 “(6) ‘Creditable service’ means any period of time during which an active
6 member is being paid a salary by a participating public employer and for
7 which benefits under this chapter are funded by employer contributions and
8 earnings on the fund. For purposes of computing years of ‘creditable
9 service,’ full months and major fractions of a month shall be considered to
10 be one-twelfth of a year and shall be added to all full years. ‘Creditable
11 service’ includes all retirement credit received by a member.

12 “(7) ‘Earliest service retirement age’ means the age attained by a member
13 when the member could first make application for retirement under the pro-
14 visions of ORS 238.280.

15 “(8) ‘Employee’ includes, in addition to employees, public officers, but
16 does not include:

17 “(a) Persons engaged as independent contractors.

18 “(b) Seasonal, emergency or casual workers whose periods of employment
19 with any public employer or public employers do not total 600 hours in any
20 calendar year.

21 “(c) Persons provided sheltered employment or made-work by a public
22 employer in an employment or industries program maintained for the benefit
23 of such persons.

24 “(d) Persons employed and paid from federal funds received under a fed-
25 eral program intended primarily to alleviate unemployment. However, any
26 such person shall be considered an ‘employee’ if not otherwise excluded by
27 paragraphs (a) to (c) of this subsection and the public employer elects to
28 have the person so considered by an irrevocable written notice to the board.

29 “(e) Persons who are employees of a railroad, as defined in ORS 824.020,
30 and who, as such employees, are included in a retirement plan under federal

1 railroad retirement statutes. This paragraph shall be deemed to have been
2 in effect since the inception of the system.

3 “(f) Persons employed in positions classified as post-doctoral scholar po-
4 sitions by a public university listed in ORS 352.002, or by the Oregon Health
5 and Science University, under ORS 350.370.

6 “(9) ‘Final average salary’ means whichever of the following is greater:

7 “(a) The average salary per calendar year paid by one or more partic-
8 ipating public employers to an employee who is an active member of the
9 system in three of the calendar years of membership before the effective date
10 of retirement of the employee, in which three years the employee was paid
11 the highest salary. The three calendar years in which the employee was paid
12 the largest total salary may include calendar years in which the employee
13 was employed for less than a full calendar year. If the number of calendar
14 years of active membership before the effective date of retirement of the
15 employee is three or fewer, the final average salary for the employee is the
16 average salary per calendar year paid by one or more participating public
17 employers to the employee in all of those years, without regard to whether
18 the employee was employed for the full calendar year.

19 “(b) One-third of the total salary paid by a participating public employer
20 to an employee who is an active member of the system in the last 36 calendar
21 months of active membership before the effective date of retirement of the
22 employee.

23 “(10) ‘Firefighter’ does not include a volunteer firefighter, but does in-
24 clude:

25 “(a) The State Fire Marshal, the chief deputy fire marshal and deputy
26 state fire marshals; and

27 “(b) An employee of the State Forestry Department who is certified by the
28 State Forester as a professional wildland firefighter and whose primary du-
29 ties include the abatement of uncontrolled fires as described in ORS 477.064.

30 “(11) ‘Fiscal year’ means 12 calendar months commencing on July 1 and

1 ending on June 30 following.

2 “(12) ‘Fund’ means the Public Employees Retirement Fund.

3 “(13) ‘Inactive member’ means a member who is not employed in a quali-
4 fying position, whose membership has not been terminated in the manner
5 described by ORS 238.095 and who is not retired for service or disability.

6 “(14) ‘Institution of higher education’ means a public university listed in
7 ORS 352.002, the Oregon Health and Science University and a community
8 college, as defined in ORS 341.005.

9 “(15) ‘Member’ means a person who has established membership in the
10 system and whose membership has not been terminated as described in ORS
11 238.095. ‘Member’ includes active, inactive and retired members.

12 “(16) ‘Member account’ means the regular account and the variable ac-
13 count.

14 “(17) ‘Normal retirement age’ means:

15 “(a) For a person who establishes membership in the system before Jan-
16 uary 1, 1996, as described in ORS 238.430, 55 years of age if the employee
17 retires at that age as a police officer or firefighter or 58 years of age if the
18 employee retires at that age as other than a police officer or firefighter.

19 “(b) For a person who establishes membership in the system on or after
20 January 1, 1996, as described in ORS 238.430, 55 years of age if the employee
21 retires at that age as a police officer or firefighter or 60 years of age if the
22 employee retires at that age as other than a police officer or firefighter.

23 “(18) ‘Pension’ means annual payments for life derived from contributions
24 by one or more public employers.

25 “(19) ‘Police officer’ includes:

26 “(a) Employees of institutions defined in ORS 421.005 as Department of
27 Corrections institutions whose duties, as assigned by the Director of the
28 Department of Corrections, include the custody of persons committed to the
29 custody of or transferred to the Department of Corrections and employees
30 of the Department of Corrections who were classified as police officers on

1 or before July 27, 1989, whether or not such classification was authorized
2 by law.

3 “(b) Employees of the Department of State Police who are classified as
4 police officers by the Superintendent of State Police.

5 “(c) Employees of the Oregon Liquor Control Commission who are clas-
6 sified as regulatory specialists by the administrator of the commission.

7 “(d) Sheriffs and those deputy sheriffs or other employees of a sheriff
8 whose duties, as classified by the sheriff, are the regular duties of police
9 officers or corrections officers.

10 “(e) Police chiefs and police personnel of a city who are classified as po-
11 lice officers by the council or other governing body of the city.

12 “(f) Police officers who are commissioned by a university under ORS
13 352.121 or 353.125 and who are classified as police officers by the university.

14 “(g) Parole and probation officers employed by the Department of Cor-
15 rections, parole and probation officers who are transferred to county em-
16 ployment under ORS 423.549 and adult parole and probation officers, as
17 defined in ORS 181A.355, who are classified as police officers for the pur-
18 poses of this chapter by the county governing body. If a county classifies
19 adult parole and probation officers as police officers for the purposes of this
20 chapter, and the employees so classified are represented by a labor organ-
21 ization, any proposal by the county to change that classification or to cease
22 to classify adult parole and probation officers as police officers for the pur-
23 poses of this chapter is a mandatory subject of bargaining.

24 “(h) Police officers appointed under ORS 276.021 or 276.023.

25 “(i) Employees of the Port of Portland who are classified as airport police
26 by the Board of Commissioners of the Port of Portland.

27 “(j) Employees of the State Department of Agriculture who are classified
28 as livestock police officers by the Director of Agriculture.

29 “(k) Employees of the Department of Public Safety Standards and Train-
30 ing who are classified by the department as other than secretarial or clerical

1 personnel.

2 “(L) Investigators of the Criminal Justice Division of the Department of
3 Justice.

4 “(m) Corrections officers as defined in ORS 181A.355.

5 “(n) Employees of the Oregon State Lottery Commission who are classi-
6 fied by the Director of the Oregon State Lottery as enforcement agents pur-
7 suant to ORS 461.110.

8 “(o) The Director of the Department of Corrections.

9 “(p) An employee who for seven consecutive years has been classified as
10 a police officer as defined by this section, and who is employed or transferred
11 by the Department of Corrections to fill a position designated by the Direc-
12 tor of the Department of Corrections as being eligible for police officer sta-
13 tus.

14 “(q) An employee of the Department of Corrections classified as a police
15 officer on or prior to July 27, 1989, whether or not that classification was
16 authorized by law, as long as the employee remains in the position held on
17 July 27, 1989. The initial classification of an employee under a system im-
18 plemented pursuant to ORS 240.190 does not affect police officer status.

19 “(r) Employees of a school district who are appointed and duly sworn
20 members of a law enforcement agency of the district as provided in ORS
21 332.531 or otherwise employed full-time as police officers commissioned by
22 the district.

23 “(s) Employees at youth correction facilities and juvenile detention facil-
24 ities under ORS 419A.050, 419A.052 and 420.005 to 420.915 who are required
25 to hold valid Oregon teaching licenses and who have supervisory, control or
26 teaching responsibilities over juveniles committed to the custody of the De-
27 partment of Corrections or the Oregon Youth Authority.

28 “(t) Employees at youth correction facilities as defined in ORS 420.005
29 whose primary job description involves the custody, control, treatment, in-
30 vestigation or supervision of juveniles placed in such facilities.

1 “(u) Employees of the Oregon Youth Authority who are classified as ju-
2 venile parole and probation officers.

3 “(v) Employees of the Department of Human Services who are prohibited
4 from striking under ORS 243.726 and whose duties include the care of resi-
5 dents of residential facilities, as defined in ORS 443.400, that house individ-
6 uals with intellectual or developmental disabilities.

7 “(20) ‘Prior service credit’ means credit provided under ORS 238.442 or
8 under ORS 238.225 (2) to (6) (1999 Edition).

9 “(21) ‘Public employer’ means the state, one of its agencies, any city,
10 county, or municipal or public corporation, any political subdivision of the
11 state or any instrumentality thereof, or an agency created by one or more
12 such governmental organizations to provide governmental services. For pur-
13 poses of this chapter, such agency created by one or more governmental or-
14 ganizations is a governmental instrumentality and a legal entity with power
15 to enter into contracts, hold property and sue and be sued.

16 “(22) ‘Qualifying position’ means one or more jobs with one or more par-
17 ticipating public employers in which an employee performs 600 or more hours
18 of service in a calendar year, excluding any service in a job for which a
19 participating public employer does not provide benefits under this chapter
20 pursuant to an application made under ORS 238.035.

21 “(23) ‘Regular account’ means the account established for each active and
22 inactive member under ORS 238.250.

23 “(24) ‘Retired member’ means a member who is retired for service or dis-
24 ability.

25 “(25) ‘Retirement credit’ means a period of time that is treated as credit-
26 able service for the purposes of this chapter.

27 “(26)(a) ‘Salary’ means the remuneration paid an employee in cash out of
28 the funds of a public employer in return for services to the employer, plus
29 the monetary value, as determined by the Public Employees Retirement
30 Board, of whatever living quarters, board, lodging, fuel, laundry and other

1 advantages the employer furnishes the employee in return for services.

2 “(b) ‘Salary’ includes but is not limited to:

3 “(A) Payments of employee and employer money into a deferred compen-
4 sation plan, which are deemed salary paid in each month of deferral;

5 “(B) The amount of participation in a tax-sheltered or deferred annuity,
6 which is deemed salary paid in each month of participation;

7 “(C) Retroactive payments described in ORS 238.008; and

8 “(D) Wages of a deceased member paid to a surviving spouse or dependent
9 children under ORS 652.190.

10 “(c) ‘Salary’ or ‘other advantages’ does not include:

11 “(A) Travel or any other expenses incidental to employer’s business which
12 is reimbursed by the employer;

13 “(B) Payments for insurance coverage by an employer on behalf of em-
14 ployee or employee and dependents, for which the employee has no cash op-
15 tion;

16 “(C) Payments made on account of an employee’s death;

17 “(D) Any lump sum payment for accumulated unused sick leave;

18 “(E) Any accelerated payment of an employment contract for a future
19 period or an advance against future wages;

20 “(F) Any retirement incentive, retirement severance pay, retirement bonus
21 or retirement gratuitous payment;

22 “(G) Payments for periods of leave of absence after the date the employer
23 and employee have agreed that no future services qualifying pursuant to ORS
24 238.015 (3) will be performed, except for sick leave and vacation;

25 “(H) Payments for instructional services rendered to public universities
26 listed in ORS 352.002 or the Oregon Health and Science University when
27 such services are in excess of full-time employment subject to this chapter.
28 A person employed under a contract for less than 12 months is subject to this
29 subparagraph only for the months to which the contract pertains;

30 “(I) Payments made by an employer for insurance coverage provided to a

1 domestic partner of an employee;

2 “(J) Compensation described and authorized under ORS 341.556 that is not
3 paid by the community college employing the faculty member;

4 “(K) Compensation described and authorized under ORS 352.232 that is
5 not paid by the public university employing the officer or employee; [or]

6 “(L) Compensation described and authorized under ORS 353.270 that is
7 not paid by Oregon Health and Science University[.]; or

8 **“(M) For years beginning on or after January 1, 2020, any amount**
9 **in excess of \$195,000 for a calendar year. If any period over which sal-**
10 **ary is determined is less than 12 months, the \$195,000 limitation for**
11 **that period shall be multiplied by a fraction, the numerator of which**
12 **is the number of months in the determination period and the denom-**
13 **inator of which is 12. On January 1 of each year, the board shall adjust**
14 **the dollar limit provided by this subparagraph to reflect any percent-**
15 **age changes in the Consumer Price Index for All Urban Consumers,**
16 **West Region (All Items), as published by the Bureau of Labor Statis-**
17 **tics of the United States Department of Labor.**

18 “(27) ‘School year’ means the period beginning July 1 and ending June 30
19 next following.

20 “(28) ‘System’ means the Public Employees Retirement System.

21 “(29) ‘Variable account’ means the account established for a member who
22 participates in the Variable Annuity Account under ORS 238.260.

23 “(30) ‘Vested’ means being an active member of the system in each of five
24 calendar years.

25 “(31) ‘Volunteer firefighter’ means a firefighter whose position normally
26 requires less than 600 hours of service per year.

27 **“SECTION 70.** ORS 238A.005, as amended by section 5, chapter 54,
28 Oregon Laws 2018, and section 2, chapter 101, Oregon Laws 2018, is amended
29 to read:

30 “238A.005. For the purposes of this chapter:

1 “(1) ‘Active member’ means a member of the pension program or the in-
2 dividual account program of the Oregon Public Service Retirement Plan who
3 is actively employed in a qualifying position.

4 “(2) ‘Actuarial equivalent’ means a payment or series of payments having
5 the same value as the payment or series of payments replaced, computed on
6 the basis of interest rate and mortality assumptions adopted by the board.

7 “(3) ‘Board’ means the Public Employees Retirement Board.

8 “(4) ‘Eligible employee’ means a person who performs services for a par-
9 ticipating public employer, including elected officials other than judges. ‘El-
10 igible employee’ does not include:

11 “(a) Persons engaged as independent contractors;

12 “(b) Aliens working under a training or educational visa;

13 “(c) Persons provided sheltered employment or make-work by a public
14 employer;

15 “(d) Persons categorized by a participating public employer as student
16 employees;

17 “(e) Any person who is an inmate of a state institution;

18 “(f) Employees of foreign trade offices of the Oregon Business Develop-
19 ment Department who live and perform services in foreign countries under
20 the provisions of ORS 285A.075 (1)(g);

21 “(g) An employee actively participating in an alternative retirement pro-
22 gram established under ORS 353.250 or an optional retirement plan estab-
23 lished under ORS 341.551;

24 “(h) Employees of a public university listed in ORS 352.002 who are ac-
25 tively participating in an optional retirement plan offered under ORS 243.800;

26 “(i) Persons employed in positions classified as post-doctoral scholar po-
27 sitions by a public university listed in ORS 352.002, or by the Oregon Health
28 and Science University, under ORS 350.370;

29 “(j) Any employee who belongs to a class of employees that was not eli-
30 gible on August 28, 2003, for membership in the system under the provisions

1 of ORS chapter 238 or other law;

2 “(k) Any person who belongs to a class of employees who are not eligible
3 to become members of the Oregon Public Service Retirement Plan under the
4 provisions of ORS 238A.070 (2);

5 “(L) Any person who is retired under ORS 238A.100 to 238A.250 or ORS
6 chapter 238 and who continues to receive retirement benefits while employed;
7 and

8 “(m) Judges.

9 “(5) ‘Firefighter’ means:

10 “(a) A person employed by a local government, as defined in ORS 174.116,
11 whose primary job duties include the fighting of fires;

12 “(b) The State Fire Marshal, the chief deputy state fire marshal and
13 deputy state fire marshals; and

14 “(c) An employee of the State Forestry Department who is certified by the
15 State Forester as a professional wildland firefighter and whose primary du-
16 ties include the abatement of uncontrolled fires as described in ORS 477.064.

17 “(6) ‘Fund’ means the Public Employees Retirement Fund.

18 “(7)(a) ‘Hour of service’ means:

19 “(A) An hour for which an eligible employee is directly or indirectly paid
20 or entitled to payment by a participating public employer for performance
21 of duties in a qualifying position; and

22 “(B) An hour of vacation, holiday, illness, incapacity, jury duty, military
23 duty or authorized leave during which an employee does not perform duties
24 but for which the employee is directly or indirectly paid or entitled to pay-
25 ment by a participating public employer for services in a qualifying position,
26 as long as the hour is within the number of hours regularly scheduled for
27 the performance of duties during the period of vacation, holiday, illness, in-
28 capacity, jury duty, military duty or authorized leave.

29 “(b) ‘Hour of service’ does not include any hour for which payment is
30 made or due under a plan maintained solely for the purpose of complying

1 with applicable unemployment compensation laws.

2 “(8) ‘Inactive member’ means a member of the pension program or the
3 individual account program of the Oregon Public Service Retirement Plan
4 whose membership has not been terminated, who is not a retired member and
5 who is not employed in a qualifying position.

6 “(9) ‘Individual account program’ means the defined contribution individ-
7 ual account program of the Oregon Public Service Retirement Plan estab-
8 lished under ORS 238A.025.

9 “(10) ‘Institution of higher education’ means a public university listed in
10 ORS 352.002, the Oregon Health and Science University or a community
11 college, as defined in ORS 341.005.

12 “(11) ‘Member’ means an eligible employee who has established member-
13 ship in the pension program or the individual account program of the Oregon
14 Public Service Retirement Plan and whose membership has not been termi-
15 nated under ORS 238A.110 or 238A.310.

16 “(12) ‘Participating public employer’ means a public employer as defined
17 in ORS 238.005 that provides retirement benefits for employees of the public
18 employer under the system.

19 “(13) ‘Pension program’ means the defined benefit pension program of the
20 Oregon Public Service Retirement Plan established under ORS 238A.025.

21 “(14) ‘Police officer’ means a police officer as described in ORS 238.005.

22 “(15) ‘Qualifying position’ means one or more jobs with one or more par-
23 ticipating public employers in which an eligible employee performs 600 or
24 more hours of service in a calendar year, excluding any service in a job for
25 which benefits are not provided under the Oregon Public Service Retirement
26 Plan pursuant to ORS 238A.070 (2).

27 “(16) ‘Retired member’ means a pension program member who is receiving
28 a pension as provided in ORS 238A.180 to 238A.195.

29 “(17)(a) ‘Salary’ means the remuneration paid to an active member in re-
30 turn for services to the participating public employer, including

1 remuneration in the form of living quarters, board or other items of value,
2 to the extent the remuneration is includable in the employee's taxable in-
3 come under Oregon law. 'Salary' includes the additional amounts specified
4 in paragraph (b) of this subsection, but does not include the amounts speci-
5 fied in paragraph (c) of this subsection, regardless of whether those amounts
6 are includable in taxable income.

7 "(b) 'Salary' includes the following amounts:

8 "(A) Payments of employee and employer money into a deferred compen-
9 sation plan that are made at the election of the employee.

10 "(B) Contributions to a tax-sheltered or deferred annuity that are made
11 at the election of the employee.

12 "(C) Any amount that is contributed to a cafeteria plan or qualified
13 transportation fringe benefit plan by the employer at the election of the
14 employee and that is not includable in the taxable income of the employee
15 by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on December 31, 2017.

16 "(D) Any amount that is contributed to a cash or deferred arrangement
17 by the employer at the election of the employee and that is not included in
18 the taxable income of the employee by reason of 26 U.S.C. 402(e)(3), as in
19 effect on December 31, 2017.

20 "(E) Retroactive payments described in ORS 238.008.

21 "(F) The amount of an employee contribution to the individual account
22 program that is paid by the employer and deducted from the compensation
23 of the employee, as provided under ORS 238A.335 (1) and (2)(a).

24 "(G) The amount of an employee contribution to the individual account
25 program that is not paid by the employer under ORS 238A.335.

26 "(H) Wages of a deceased member paid to a surviving spouse or dependent
27 children under ORS 652.190.

28 "(c) 'Salary' does not include the following amounts:

29 "(A) Travel or any other expenses incidental to employer's business which
30 is reimbursed by the employer.

1 “(B) Payments made on account of an employee’s death.

2 “(C) Any lump sum payment for accumulated unused sick leave, vacation
3 leave or other paid leave.

4 “(D) Any severance payment, accelerated payment of an employment
5 contract for a future period or advance against future wages.

6 “(E) Any retirement incentive, retirement bonus or retirement gratuitous
7 payment.

8 “(F) Payment for a leave of absence after the date the employer and em-
9 ployee have agreed that no future services in a qualifying position will be
10 performed.

11 “(G) Payments for instructional services rendered to public universities
12 listed in ORS 352.002 or the Oregon Health and Science University when
13 those services are in excess of full-time employment subject to this chapter.
14 A person employed under a contract for less than 12 months is subject to this
15 subparagraph only for the months covered by the contract.

16 “(H) The amount of an employee contribution to the individual account
17 program that is paid by the employer and is not deducted from the compen-
18 sation of the employee, as provided under ORS 238A.335 (1) and (2)(b).

19 “(I) Compensation described and authorized under ORS 341.556 that is not
20 paid by the community college employing the faculty member.

21 “(J) Compensation described and authorized under ORS 352.232 that is not
22 paid by the public university employing the officer or employee.

23 “(K) Compensation described and authorized under ORS 353.270 that is
24 not paid by Oregon Health and Science University.

25 “(L) **For years before 2020**, any amount in excess of \$200,000 for a cal-
26 endar year. If any period over which salary is determined is less than 12
27 months, the \$200,000 limitation for that period shall be multiplied by a frac-
28 tion, the numerator of which is the number of months in the determination
29 period and the denominator of which is 12. The board shall adopt rules ad-
30 justing this dollar limit to incorporate cost-of-living adjustments authorized

1 by the Internal Revenue Service.

2 “(M) For years beginning on or after January 1, 2020, any amount
3 in excess of \$195,000 for a calendar year. If any period over which sal-
4 ary is determined is less than 12 months, the \$195,000 limitation for
5 that period shall be multiplied by a fraction, the numerator of which
6 is the number of months in the determination period and the denom-
7 inator of which is 12. On January 1 of each year, the board shall adjust
8 the dollar limit provided by this subparagraph to reflect any percent-
9 age changes in the Consumer Price Index for All Urban Consumers,
10 West Region (All Items), as published by the Bureau of Labor Statis-
11 tics of the United States Department of Labor.

12 “(18) ‘System’ means the Public Employees Retirement System.

13 “(19) ‘Workers’ compensation benefits’ means:

14 “(a) Payments made under ORS chapter 656; or

15 “(b) Payments provided in lieu of workers’ compensation benefits under
16 ORS 656.027 (6).

17 **“SECTION 71.** ORS 238.580 is amended to read:

18 “238.580. (1) **Except as provided in subsection (3) of this section,** ORS
19 238.005 (4) and (26), 238.025, 238.078, 238.082, 238.092, 238.115 (1), 238.250,
20 238.255, 238.260, 238.350, 238.364, 238.410, 238.415, 238.420, 238.445, 238.458,
21 238.460, 238.465, 238.475, 238.600, 238.605, 238.610, 238.618, 238.630, 238.635,
22 238.645, 238.650, 238.655, 238.660, 238.665, 238.670 and 238.705 and the in-
23 creases provided by ORS 238.366 for members of the system who are serving
24 as other than police officers or firefighters apply in respect to service as a
25 judge member.

26 “(2) This chapter applies in respect to persons described in ORS 238.505
27 (1) and in respect to service as a judge member only as specifically provided
28 in ORS 238.500 to 238.585.

29 “(3) **ORS 238.005 (26)(c)(M) does not apply in respect to service as a**
30 **judge member.**

1 partnership, joint venture, subsidiary or other business entity.

2 **“(10) ‘Sports betting game’ means a lottery game in which the dis-**
3 **tribution of prizes is based on the results of one or more sporting**
4 **events.**

5 **“SECTION 73.** ORS 461.010, as amended by section 72 of this 2019 Act,
6 is amended to read:

7 “461.010. Unless the context requires otherwise, the definitions contained
8 in this chapter shall govern the construction of this chapter.

9 “(1) ‘Commissioner’ means one of the members of the lottery commission
10 appointed by the Governor pursuant to the Constitution of the State of
11 Oregon and this chapter to oversee the state lottery.

12 “(2) ‘Director’ means the Director of the Oregon State Lottery appointed
13 by the Governor pursuant to the Constitution of the State of Oregon and this
14 chapter as the chief administrator of the Oregon State Lottery.

15 “(3) ‘Lottery’ or ‘state lottery’ means the Oregon State Lottery established
16 and operated pursuant to the Constitution of the State of Oregon and this
17 chapter.

18 “(4) ‘Lottery commission’ or ‘commission’ means the five-member body
19 appointed by the Governor pursuant to the Constitution of the State of
20 Oregon and this chapter to oversee the lottery and the director.

21 “(5) ‘Lottery contractor’ means a person with whom the state lottery has
22 contracted for the purpose of providing goods and services for the state lot-
23 tery.

24 “(6) ‘Lottery game’ or ‘game’ means any procedure authorized by the
25 commission whereby prizes are distributed among persons who have paid, or
26 unconditionally agreed to pay, for tickets or shares that provide the oppor-
27 tunity to win such prizes.

28 “(7) ‘Lottery game retailer’ means a person with whom the lottery com-
29 mission has contracted for the purpose of selling tickets or shares in lottery
30 games to the public.

1 “(8) ‘Lottery vendor’ or ‘vendor’ means any person who submits a bid,
2 proposal or offer to provide goods or services to the commission or lottery.

3 “(9) ‘Person’ means any natural person or corporation, trust, association,
4 partnership, joint venture, subsidiary or other business entity.

5 “[*(10) ‘Sports betting game’ means a lottery game in which the distribution*
6 *of prizes is based on the results of one or more sporting events.*]

7 **“SECTION 74. Section 75 of this 2019 Act is added to and made a**
8 **part of ORS chapter 461.**

9 **“SECTION 75. (1) The Oregon State Lottery Commission shall sep-**
10 **arately record and account for the costs and net proceeds of sports**
11 **betting games.**

12 **“(2) When the commission transfers net lottery proceeds to the**
13 **Administrative Services Economic Development Fund established un-**
14 **der ORS 461.540, the commission shall certify to the Oregon Depart-**
15 **ment of Administrative Services the amount of such transfer that**
16 **represents the net proceeds of sports betting games.**

17 **“(3) The department shall transfer an amount equal to the net**
18 **proceeds of sports betting games to the Employer Incentive Fund es-**
19 **tablished under section 1, chapter 105, Oregon Laws 2018.**

20 **“SECTION 76. The Legislative Assembly finds that a reduction of**
21 **employer contributions required under the Public Employees Retire-**
22 **ment System averts future tax increases that would otherwise be**
23 **necessary to pay for such contributions, and that the use of lottery**
24 **revenues under section 75 of this 2019 Act therefore promotes eco-**
25 **nomi c development.**

26 **“SECTION 77. Sections 75 and 76 of this 2019 Act are repealed on**
27 **December 31, 2041.**

28

29

“EMPLOYER PROGRAMS

30

1 **“SECTION 78.** Section 1, chapter 105, Oregon Laws 2018, is amended to
2 read:

3 **“Sec. 1.** (1) The Employer Incentive Fund is established in the State
4 Treasury, separate and distinct from the General Fund. Interest earned by
5 the Employer Incentive Fund shall be credited to the fund[, *but*]. Interest
6 earned **by the fund** may [*not*] be used under section 2, **chapter 105, Oregon**
7 **Laws 2018**, [*of this 2018 Act*] to match lump sum payments made under ORS
8 238.229.

9 “(2) Moneys in the fund are continuously appropriated to the Public Em-
10 ployees Retirement Board for the purposes described in sections 2 and 26,
11 **chapter 105, Oregon Laws 2018** [*of this 2018 Act*].

12 **“(3) Moneys in the fund shall be invested in the Oregon Short Term**
13 **Fund established under ORS 293.728.**

14 **“SECTION 79.** Section 2, chapter 105, Oregon Laws 2018, is amended to
15 read:

16 **“Sec. 2.** (1)(a) The Public Employees Retirement Board shall establish a
17 process for distributing the moneys in the Employer Incentive Fund estab-
18 lished under section 1, **chapter 105, Oregon Laws 2018** [*of this 2018 Act*].

19 “(b) The process must allow a participating public employer to apply to
20 reserve matching amounts in the Employer Incentive Fund by committing to
21 make a qualifying lump sum payment of at least \$25,000 to an account es-
22 tablished under ORS 238.229.

23 “(2) The board shall adopt rules establishing:

24 “(a) The percentage of a lump sum payment that may be matched by dis-
25 tributions from the fund, not to exceed 25 percent of a qualifying lump sum
26 payment.

27 “(b) The maximum matching amount that may be reserved by a partic-
28 ipating public employer, not to exceed the greater of:

29 “(A) Five percent of the unfunded actuarial liability attributable to the
30 employer, as determined in the most recent report prepared under ORS

1 238.605; or

2 “(B) \$300,000.

3 “(c) The qualifications for lump sum payments that may be matched under
4 this section[. *The qualifications must include the following requirements:*]

5 “[*(A) The participating public employer must apply to reserve matching*
6 *funds no later than December 31, 2019.*]

7 “[*(B) The participating public employer must make the qualifying lump sum*
8 *payment no later than July 1, 2023.*]

9 “[*(C)*], **including a requirement that** a qualifying lump sum payment
10 may not be a payment from moneys borrowed by the employer.

11 “(d) A requirement that the participating public employer participate in
12 the Unfunded Actuarial Liability Resolution Program to develop a plan un-
13 der section 26, **chapter 105, Oregon Laws 2018** [*of this 2018 Act*].

14 “[*(3)(a) The board may begin accepting applications under subsection (1)*
15 *of this section on the date on which the board determines that there are suf-*
16 *ficient moneys in the Employer Incentive Fund.*]

17 “[*(b)*] **(3)(a)** For [*180*] **90** days after the board begins accepting applica-
18 tions under subsection (1) of this section, a participating public employer
19 may apply to reserve matching amounts from the Employer Incentive Fund
20 under subsection (1) of this section only if the unfunded actuarial liability
21 attributable to the employer, as determined in the most recent report pre-
22 pared under ORS 238.605, is more than 200 percent of the employer’s payroll
23 for members of the Public Employees Retirement System.

24 “[*(c)*] **(b)** After the [*180-day*] **90-day** period described in paragraph [*(b)*]
25 **(a)** of this subsection, any participating public employer may apply to re-
26 serve matching funds from the Employer Incentive Fund under subsection (1)
27 of this section.

28 “(4)**(a)** The board shall approve applications that meet the qualifications
29 established under subsection (2) of this section in the order in which the
30 applications are submitted. The board shall continue approving applications

1 as long as **adequate** moneys in the Employer Incentive Fund are **projected**
2 **to become** available.

3 **“(b) After all of the moneys projected to become available in the**
4 **Employer Incentive Fund are reserved for matching under paragraph**
5 **(a) of this subsection, the board may establish a waiting list for the**
6 **remaining timely submitted applications and, if sufficient moneys in**
7 **the Employer Incentive Fund become available, shall approve, in the**
8 **order in which the applications were submitted, applications that meet**
9 **the qualifications established under subsection (2) of this section.**

10 **“(5) The board shall transfer matching amounts approved under sub-**
11 **section (4) of this section from the Employer Incentive Fund to the approved**
12 **employers’ accounts established under ORS 238.229.**

13 **“(6) The board may transfer moneys from the Employer Incentive Fund**
14 **to the Public Employees Retirement Fund established under ORS 238.660 for**
15 **crediting to the reserves for pension accounts and annuities as provided in**
16 **ORS 238.670 (2).**

17 **“(7) The board may use moneys in the Employer Incentive Fund for rea-**
18 **sonable administrative costs incurred under this section.**

19 **“SECTION 80. Section 3, chapter 105, Oregon Laws 2018, is amended to**
20 **read:**

21 **“Sec. 3. (1) Section 2, chapter 105, Oregon Laws 2018, as amended by**
22 **section 79 of this 2019 Act, [of this 2018 Act] is repealed [January 2, 2025]**
23 **July 1, 2042.**

24 **“(2)(a) The Employer Incentive Fund established under section 1, chapter**
25 **105, Oregon Laws 2018, [of this 2018 Act] is abolished on [January 2, 2025]**
26 **July 1, 2042.**

27 **“(b)(A) Except as provided in subparagraph (B) of this paragraph,**
28 **the unexpended moneys remaining in the Employer Incentive Fund on [Jan-**
29 **uary 2, 2025] July 1, 2042, shall be transferred to the General Fund.**

30 **“(B) The unexpended moneys remaining in the Employer Incentive**

1 **Fund on July 1, 2042, that are attributable to sports betting games, as**
2 **defined in ORS 461.010, shall be transferred to the Administrative**
3 **Services Economic Development Fund.**

4 **“SECTION 81.** Section 13, chapter 105, Oregon Laws 2018, is amended to
5 read:

6 **“Sec. 13.** (1) Not earlier than July 1 and not later than October 1 of the
7 years 2019, 2021 and 2023, the division of the Oregon Department of Admin-
8 istrative Services that serves as office of economic analysis shall:

9 “(a) Calculate the rate of change in the tax liability from personal income
10 taxes on taxable capital gains during the five preceding biennia; and

11 “(b) Use the rate of change calculated under paragraph (a) of this sub-
12 section to forecast the tax liability from personal income taxes on taxable
13 capital gains for the biennium beginning on July 1 of the year in which the
14 calculation is made.

15 “(2) Not later than November 1 of the odd-numbered year following each
16 calculation under subsection (1) of this section, the Oregon Department of
17 Administrative Services, in consultation with the Department of Revenue,
18 shall estimate the tax liability from personal income taxes on taxable capital
19 gains for the previous biennium.

20 “(3) Not later than November 30 of the odd-numbered year in which the
21 estimate is made under subsection (2) of this section, the Oregon Department
22 of Administrative Services, in consultation with the Department of Revenue,
23 shall determine whether the tax liability from personal income taxes on
24 capital gains estimated under subsection (2) of this section, less any amount
25 required to be returned to taxpayers under ORS 291.349, exceeds the tax li-
26 ability from personal income taxes on taxable capital gains forecasted under
27 subsection (1) of this section.

28 “(4) Except as provided in subsection (5) of this section, **on the last**
29 **business day of the odd-numbered year in which the estimate is made**
30 **under subsection (2) of this section,** the Department of Revenue shall

1 transfer an amount equal to 25 percent of any excess calculated under sub-
2 section (3) of this section to the School Districts Unfunded Liability Fund
3 established in section 24, **chapter 105, Oregon Laws 2018** [*of this 2018*
4 *Act*].

5 “(5) The Department of Revenue may not make a transfer under sub-
6 section (4) of this section if:

7 “(a) The Legislative Assembly has appropriated moneys from the Oregon
8 Rainy Day Fund under ORS 293.144 on or after [*the effective date of this 2018*
9 *Act*] **June 2, 2018**; or

10 “(b) The Public Employees Retirement System is more than 90 percent
11 funded as determined in accordance with rules adopted by the Public Em-
12 ployees Retirement Board.

13 “(6) The Department of Revenue shall retain unreceipted revenue from the
14 tax imposed under ORS chapter 316 in an amount necessary to make the
15 transfer required under subsection (4) of this section. The department shall
16 make the transfer out of the unreceipted revenue in lieu of paying the reve-
17 nue over to the State Treasurer for deposit in the General Fund.

18 “**SECTION 82.** Section 15, chapter 105, Oregon Laws 2018, is amended to
19 read:

20 “**Sec. 15.** (1) Not earlier than July 1 and not later than October 1 of the
21 years 2019, 2021 and 2023, the division of the Oregon Department of Admin-
22 istrative Services that serves as office of economic analysis shall:

23 “(a) Calculate the rate of change in collections from estate taxes during
24 the five preceding biennia; and

25 “(b) Use the rate of change calculated under paragraph (a) of this sub-
26 section to forecast the collections from estate taxes for the biennium begin-
27 ning on July 1 of the year in which the calculation is made.

28 “(2) Not later than November 1 of the odd-numbered year following each
29 calculation under subsection (1) of this section, the Oregon Department of
30 Administrative Services, in consultation with the Department of Revenue,

1 shall estimate the collections from estate taxes for the previous biennium.

2 “(3) Not later than November 30 of the odd-numbered year in which the
3 estimate is made under subsection (2) of this section, the Oregon Department
4 of Administrative Services, in consultation with the Department of Revenue,
5 shall determine whether the collections from estate taxes estimated under
6 subsection (2) of this section exceed the collections from estate taxes fore-
7 casted under subsection (1) of this section.

8 “(4) **On the last business day of the odd-numbered year in which the**
9 **estimate is made under subsection (2) of this section,** the Department
10 of Revenue shall transfer an amount equal to the amount of any excess cal-
11 culated under subsection (3) of this section, less any amount required to be
12 returned to taxpayers under ORS 291.349, to the School Districts Unfunded
13 Liability Fund established in section 24, **chapter 105, Oregon Laws 2018**
14 [*of this 2018 Act*].

15 “(5) The Department of Revenue shall retain unreceipted revenue from
16 estate taxes imposed under ORS 118.005 to 118.540 in an amount necessary
17 to make the transfer required under subsection (4) of this section. The de-
18 partment shall make the transfer out of the unreceipted revenue in lieu of
19 paying the revenue over to the State Treasurer for deposit in the General
20 Fund.

21 **“SECTION 83.** Section 24, chapter 105, Oregon Laws 2018, is amended to
22 read:

23 **“Sec. 24.** (1) The School Districts Unfunded Liability Fund is established
24 in the State Treasury, separate and distinct from the General Fund. Interest
25 earned by the School Districts Unfunded Liability Fund shall be credited to
26 the fund. The fund consists of moneys transferred to the fund under sections
27 12, 13, 15 and 22, **chapter 105, Oregon Laws 2018,** [*of this 2018 Act*] and
28 other moneys transferred, allocated or appropriated to the fund.

29 “(2) Moneys in the fund are continuously appropriated to the Public Em-
30 ployees Retirement Board for the purpose of establishing and funding a

1 pooled account to be applied against the liabilities of participating public
2 employers, as defined in ORS 238.005, that are school districts.

3 **“(3) Moneys in the fund shall be invested in the Oregon Short Term**
4 **Fund established under ORS 293.728.**

5 “[3] (4) The board shall establish an account in the Public Employees
6 Retirement Fund for the moneys in the School Districts Unfunded Liability
7 Fund.

8 “[4] (5) The board shall adopt rules providing for:

9 “(a) Proportional distribution to school districts of the moneys in the
10 account established under subsection [(3)] (4) of this section;

11 “(b) Amortization of the moneys distributed; and

12 “(c) Administration of the account established under subsection [(3)] (4)
13 of this section in the same manner as accounts established under ORS
14 238.229 (2).

15 “[5] (6) No later than February 1 of each odd-numbered year, the board
16 shall report to the Oregon Department of Administrative Services and the
17 Legislative Fiscal Officer an estimate of how moneys will be distributed un-
18 der this section in the following biennium.

19 **“SECTION 84. The School Districts Unfunded Liability Fund estab-**
20 **lished under section 24, chapter 105, Oregon Laws 2018, is abolished on**
21 **July 1, 2042. The unexpended moneys remaining in the fund on July**
22 **1, 2042, shall be transferred to the General Fund.**

23 **“SECTION 85.** Section 29, chapter 105, Oregon Laws 2018, is amended to
24 read:

25 **“Sec. 29.** Section 28 [*of this 2018 Act*], **chapter 105, Oregon Laws 2018,**
26 **is repealed on January 2, [2027] 2042.**

27 **“SECTION 86.** Section 26, chapter 105, Oregon Laws 2018, is amended to
28 read:

29 **“Sec. 26.** (1) The Public Employees Retirement Board shall establish an
30 Unfunded Actuarial Liability Resolution Program. Under the program, the

1 board shall provide technical expertise to participating public employers in
2 developing **funding** plans to improve the employers' funded status and to
3 manage projected employer contribution rate changes. [*Participating public*
4 *employers are not required to participate in the program.*] **Funding plans**
5 **developed under the program must be based on actuarial reports pre-**
6 **pared under ORS 238.605.**

7 **“(2) A participating public employer shall participate in the pro-**
8 **gram.**

9 “[~~(2)~~] (3) The board may use moneys in the Employer Incentive Fund es-
10 tablished in section 1 [*of this 2018 Act*], **chapter 105, Oregon Laws 2018,**
11 for reasonable administrative costs incurred under this section.

12 **“SECTION 87.** Section 26, chapter 105, Oregon Laws 2018, as amended
13 by section 86 of this 2019 Act, is amended to read:

14 **“Sec. 26.** (1) The Public Employees Retirement Board shall establish an
15 Unfunded Actuarial Liability Resolution Program. Under the program, the
16 board shall provide technical expertise to participating public employers in
17 developing funding plans to improve the employers' funded status and to
18 manage projected employer contribution rate changes. Funding plans devel-
19 oped under the program must be based on actuarial reports prepared under
20 ORS 238.605.

21 **“(2) A participating public employer shall participate in the program.**

22 “[~~(3)~~] *The board may use moneys in the Employer Incentive Fund estab-*
23 *lished in section 1, chapter 105, Oregon Laws 2018, for reasonable adminis-*
24 *trative costs incurred under this section.*]

25

26

“REPORTING

27

28 **“SECTION 88.** Section 89 of this 2019 Act is added to and made a
29 **part of ORS chapter 238.**

30 **“SECTION 89.** At least 30 days before the Public Employees Retire-

1 **ment Board adopts changes to actuarial methods and assumptions**
2 **used for purposes of the Public Employees Retirement System, the**
3 **board shall submit a report to the Joint Committee on Ways and**
4 **Means or the Joint Interim Committee on Ways and Means detailing**
5 **the proposed changes and the associated, actuarially determined im-**
6 **act to the total liability of the system, the accrued liability of the**
7 **system and employer contribution rates.**

8
9 **“APPROPRIATION**

10
11 **“SECTION 90. In addition to and not in lieu of any other appropri-**
12 **ation, there is appropriated to the Public Employees Retirement**
13 **Board, for the biennium beginning July 1, 2019, out of the General**
14 **Fund, the amount of \$100,000,000, to be deposited in the Employer In-**
15 **centive Fund established under section 1, chapter 105, Oregon Laws**
16 **2018.**

17 **“SECTION 91. Notwithstanding any other law limiting expenditures,**
18 **the amount of \$100,000,000 is established for the biennium beginning**
19 **July 1, 2019, as the maximum limit for payment of expenses from the**
20 **Employer Incentive Fund established under section 1, chapter 105,**
21 **Oregon Laws 2018, by the Public Employees Retirement Board.**

22
23 **“OPERATIVE DATES AND APPLICABILITY**

24
25 **“SECTION 92. Operative date for provisions relating to Tier 4 Plan.**
26 **(1) Sections 1 to 30 of this 2019 Act and the amendments to ORS**
27 **237.650, 238.008, 238.410, 238.415, 238.420, 238.445, 238.447, 238.465, 238.600,**
28 **238.645, 238.650, 238.660, 238.661, 238.665, 238.675, 238.700, 238.705, 243.800**
29 **and 341.551 by sections 31 to 49 of this 2019 Act become operative on**
30 **July 1, 2020.**

1 “(2) The Public Employees Retirement Board may take any action
2 before the operative date specified in subsection (1) of this section to
3 enable the board to exercise, on and after the operative date specified
4 in subsection (1) of this section, all the duties, functions and powers
5 conferred on the board by sections 1 to 30 of this 2019 Act and the
6 amendments to ORS 237.650, 238.008, 238.410, 238.415, 238.420, 238.445,
7 238.447, 238.465, 238.600, 238.645, 238.650, 238.660, 238.661, 238.665, 238.675,
8 238.700, 238.705, 243.800 and 341.551 by sections 31 to 49 of this 2019 Act.

9 “SECTION 93. The Public Employees Retirement Board shall allow
10 members of the Tier 4 Plan to make an election under section 15 of
11 this 2019 Act that becomes effective on January 1, 2021.

12 “SECTION 94. Applicability and operative date for provisions relat-
13 ing to lump sum payments. (1) The amendments to section 3b, chapter
14 105, Oregon Laws 2018, by section 50 of this 2019 Act apply to lump sum
15 payments made before January 1, 2024.

16 “(2) The amendments to section 3b, chapter 105, Oregon Laws 2018,
17 by section 51 of this 2019 Act become operative on January 1, 2024.

18 “SECTION 95. Operative date for provisions relating to final aver-
19 age salary. (1) The amendments to ORS 238.005, 238.580 and 238A.005
20 by sections 69 to 71 of this 2019 Act become operative on January 1,
21 2020.

22 “(2) The Public Employees Retirement Board may take any action
23 before the operative date specified in subsection (1) of this section to
24 enable the board to exercise, on and after the operative date specified
25 in subsection (1) of this section, all of the duties, functions and powers
26 conferred on the board by the amendments to ORS 238.005, 238.580 and
27 238A.005 by sections 69 to 71 of this 2019 Act.

28 “SECTION 96. Operative date for certain provisions relating to
29 proceeds of sports betting. The amendments to ORS 461.010 by section
30 73 of this 2019 Act become operative on July 1, 2042.

1 **“SECTION 97. Operative date for certain provisions relating to**
2 **Employer Incentive Fund. The amendments to section 26, chapter 105,**
3 **Oregon Laws 2018, by section 87 of this 2019 Act become operative on**
4 **July 1, 2042.**

5
6 **“REVIEW BY SUPREME COURT**

7
8 **“SECTION 98. (1) Jurisdiction is conferred upon the Supreme Court**
9 **to determine in the manner provided by this section whether this 2019**
10 **Act breaches any contract between members of the Public Employees**
11 **Retirement System and their employers or violates any provision of**
12 **the Oregon Constitution or of the United States Constitution, includ-**
13 **ing but not limited to impairment of contract rights of members of the**
14 **Public Employees Retirement System under Article I, section 21, of the**
15 **Oregon Constitution, or Article I, section 10, clause 1, of the United**
16 **States Constitution.**

17 **“(2) A person who is adversely affected by this 2019 Act or who will**
18 **be adversely affected by this 2019 Act may institute a proceeding for**
19 **review by filing with the Supreme Court a petition that meets the**
20 **following requirements:**

21 **“(a) The petition must be filed within 60 days after the effective**
22 **date of this 2019 Act.**

23 **“(b) The petition must include the following:**

24 **“(A) A statement of the basis of the challenge; and**

25 **“(B) A statement and supporting affidavit showing how the**
26 **petitioner is adversely affected.**

27 **“(3) The petitioner shall serve a copy of the petition by registered**
28 **or certified mail upon the Public Employees Retirement Board, the**
29 **Attorney General and the Governor.**

30 **“(4) Proceedings for review under this section shall be given priority**

1 over all other matters before the Supreme Court.

2 “(5) The Supreme Court shall allow public employers participating
3 in the Public Employees Retirement System to intervene in any pro-
4 ceeding under this section.

5 “(6)(a) The Supreme Court shall allow members of the Legislative
6 Assembly to intervene in any proceeding relating to this 2019 Act. Af-
7 ter a member intervenes in a proceeding relating to this 2019 Act, the
8 member has standing to participate in the proceeding even if the
9 member ceases to be a member of the Legislative Assembly.

10 “(b) A member of the Senate or the House of Representatives who
11 intervenes in a proceeding under this subsection may not use public
12 funds to pay legal expenses incurred in intervening in or participating
13 in the proceeding.

14 “(7) In the event the Supreme Court determines that there are
15 factual issues in the petition, the Supreme Court may appoint a special
16 master to hear evidence and to prepare recommended findings of fact.

17 “(8) The Supreme Court may not award attorney fees to a petitioner
18 in a proceeding under this section.

19

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“CAPTIONS

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22 “SECTION 99. The unit and section captions used in this 2019 Act
23 are provided only for the convenience of the reader and do not become
24 part of the statutory law of this state or express any legislative intent
25 in the enactment of this 2019 Act.

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“EMERGENCY CLAUSE

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29 “SECTION 100. This 2019 Act being necessary for the immediate
30 preservation of the public peace, health and safety, an emergency is

1 **declared to exist, and this 2019 Act takes effect on its passage.”.**

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