

TRAVIS NELSON
STATE REPRESENTATIVE
HOUSE DISTRICT 44
NORTH/NORTHEAST PORTLAND



HOUSE OF REPRESENTATIVES
Testimony in Support of House Bill 4094

Chair Grayber, Vice-Chair Munoz, Vice-Chair Scharf, and members of the House Labor and Workplace Development Committee,

Right now, when employees earn vacation time, they earn it as compensation. Yet in Oregon, whether that earned time is paid out at the end of employment depends entirely on an employer's policy, and enforcement is only based off of case law. Workers are often forced to pursue unpaid vacation through the courts, which can be unrealistic for the average worker. I have introduced a version of this policy in the past two long sessions, and HB 4094 is a result of changes made from those versions after receiving feedback from stakeholders. This legislation has real economic impact for workers and their families. It puts their earned compensation into their pockets when they are leaving a job, a time when they need it the most.

Before I get to the details of this bill. I want to share a personal story. The first time I remember cashing out PTO I earned as a janitor, was to move across the state of Washington to work as a landscaper and attend Seattle Central Community College. On another occasion, I cashed out PTO before starting a new job which allowed me a cushion that I needed to deal with some personal life changes before starting my next job. Luckily, I had a union contract in both cases, that said, I don't know if I would be sitting before you today if I hadn't had those dollars at critical crossroads in my life.

This bill is not radical. Sixteen states already have laws related to vacation payout, including states across the nation both red and blue. Kentucky, North Carolina, Nebraska, North Dakota, California are just some of the states that have adopted this policy. Oregon would not be an outlier.

After feedback from stakeholders, we included flexibility for employers. This bill continues to allow "use it or lose it" policies, so long as employees have a reasonable opportunity to take their leave and receive advance notice before loss of their leave. Employers can decide whether to pay out vacation or take proper steps to ensure it is used.

I also want to note that this bill only applies after the effective date and will not be impeding on any current contracts or agreements between employers and employees. It will also only impact hours earned after the effective date of this legislation.

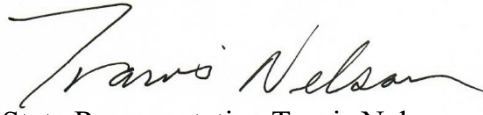
An amendment now posted to OLIS further addresses concerns raised by agency and legislative HR. It maintains the current state practice of allowing vacation accrual up to 350 hours, while capping mandatory payout at 300 hours. Employers are free to offer more generous benefits, and collective bargaining agreements cannot undercut the protections in law.

My office is currently working with Legislative Counsel on an amendment to address concerns raised by small businesses. This amendment is intended to align the bill with existing statutory frameworks in existing employment law that exempt employers with fewer than 10 employees. Additional exemption-related issues that have been raised are also being addressed. The amendment is in progress and will be ready soon.

Lastly, this bill will generate revenue without increasing taxes. When vacation is paid out as wages, it is taxed as income at a time when creativity is needed to provide additional revenue for the state while also putting money back into the pockets of workers when they are between jobs. We have also confirmed that this bill would have no effect on a members' PERS benefits beyond what currently happens with lump sum payouts.

HB 4094 is pro-worker, flexible for employers, revenue generating and representative of our state's values for Oregonians. Oregon should adopt this policy and join the many other states that already have. I urge your support.

Sincerely,



State Representative Travis Nelson
House District 44, North/NE Portland

Follow-up Questions from Committee

Is the limit of 300 hours a ceiling or a floor?

- This limit is an allowed ceiling on how many hours the employer pays out of the vacation hours earned. Examples of how this limit could work with employer's policies:
 - An employer allows their workers to earn 350 hours of vacation, but they only have to payout 300 hours when the worker leaves.
 - An employer offers 400 hours of vacation and has a policy to payout all those hours. They can payout 400 hours of vacation at the end of employment.
 - A collective bargaining agreement has been bargained to allow 1,000 hours of vacation to be earned and 500 hours of those hours to be paid out at the end of employment. These workers would be paid out the 500 hours of vacation

Can an employer have a policy that only carries over 80 hours of vacation?

- Yes, Section 1(3) states, "Nothing in this section prohibits an employer from adopting a written policy or entering into an employment contract that: (a) Establishes the method or rate of earning or accrual of paid vacation time."
 - An employer can set how many hours of vacation an employee can earn.
 - If an employer allows workers to earn and roll over 80 hours, they would payout 80 hours of vacation time.
- The bill also states that employers are not prohibited from requiring employees to use earned or accrued paid vacation time by a specific date or that provides for the forfeiture of unused paid vacation time not used by that date, if the employer provides employees with written notice of such requirement at the time of hire and 90 days before the date the unused paid vacation time would be lost and employees are given a reasonable opportunity to schedule use of the paid vacation time before any loss occurs;
 - The employer can also have a policy that 80 hours of vacation can be earned in one year, but they lose those hours at the end of the year, so long as they gave the employee 90-day notice and an opportunity to take their vacation.

How would this impact PERS?

- According to PERS, this bill would have no effect on a members' PERS benefits beyond what currently happens with lump sum payouts:
 - For **Tier 1** members it is included as subject salary for both contribution and final average salary purposes because it meets the definition of "salary" as remuneration for services rendered to a public employer, and is not otherwise excluded
 - For **Tier 2** members it is included as subject salary for contribution purposes only because like for Tier 1 members, it meets the definition of "salary", but is excluded for final average salary purposes
 - For **OPSRP** members it is excluded as subject salary for both contribution and final average salary purposes because it's specifically excluded from the salary definition.
- The only **potential** change to PERS benefits would be for the active Tier 1 employees who are **not already** receiving these benefits.
 - PERS yearly publication [PERS by the Numbers](#) from June 30, 2025 states that there were 6,496 active Tier 1 members that are currently still working.

Membership by Category		State Govt.	Local Govt.	School Districts	Total
Tier One	Active	2,295	1,873	2,328	6,496
	Inactive	1,817	2,056	2,231	6,104
Tier Two	Active	5,795	6,820	9,182	21,797
	Inactive	2,672	4,136	4,918	11,726

- Information from PERS when asked how PERS benefits would be impacted for employees who are not currently under a vacation payout policy:
 - If **Tier One** employees in these groups were not going to normally get a lump sum vacation amount, and then they do, then that lump sum would be included in their final average salary calculation, and that would increase their retirement benefit. I don't have numbers, but we very, very often see some sort of lump sum payout for our retiring members after they stop working (usually it's a vacation time payout). **So, it does not seem that this bill would cover a very large amount of people.**
 - For **Tier Two** members, it would not increase their final average salary (lump sum payments are only included for contribution purposes, so contributions would be paid on it [just like contributions are paid on other payments to employees]). So, yes employers would be paying their regular contribution rate on that lump sum as payroll, and also paying their 6% IAP contributions on that lump sum, which would cost an amount of money, but it would not be included in the members' final average salary, so it would not be included in their retirement calculation, therefore not increasing their monthly retirement amount. **It would nominally increase a Tier Two members' IAP account** (this is the individual account program account, each member has one, it's separate from the pension and members can roll it over to somewhere else upon retirement or take lump sum or installment payments of that amount).
 - **OPSRP**- Doesn't increase monthly pension amount, *and* no contributions paid on the amount, if they did not have vacation payout and now, they do.

What is the current vacation payout law in Oregon?

- Employers must pay out unused vacation at the end of employment only if they have a payout policy in their employment agreement. This is only based on case law, and BOLI has historically limited enforcement to warnings for employers. As a result, employees must file a civil lawsuit to recover unpaid vacation leave. This is especially difficult for low-income workers.

For employers who offer all leave in a PTO bucket, how will they separate out sick time?

- The forthcoming amendment has language that any employer-provided leave that counts toward Oregon's sick leave requirements would be exempt. Meaning that for many employers, they can except the first 40 hours if they combine sick and vacation.

Personal business leave is not considered vacation time in this bill. Does that exempt PTO if it isn't called vacation time?

- This language was added to address concerns from legislative HR about the "personal business leave" that legislative branch employees receive. If this leave was paid out it would add a fiscal.
 - This leave is currently allocated as an additional 24 hours of leave that does not carry over to the next year and is not paid out.
- The forthcoming amendment will more narrowly define this language to only apply to 24 hours of personal business leave for public employees.