

Enrolled
Senate Bill 1067

Sponsored by Senator COURTNEY, Representative KOTEK; Senators DEVLIN, JOHNSON, WINTERS, Representatives NATHANSON, SMITH G

CHAPTER

AN ACT

Relating to government cost containment; creating new provisions; amending ORS 137.118, 156.315, 173.420, 238.229, 238.605, 238.670, 240.185, 243.125, 243.135, 243.256, 243.864, 243.866, 243.879, 291.210, 291.216, 291.263, 291.371, 293.226, 293.229, 293.231, 293.233, 293.240, 293.250, 293.252 and 442.394; and declaring an emergency.

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

STATE WORKFORCE COST CONTAINMENT
(Review of reclassifications)

SECTION 1. (1) As used in this section, “legislative review agency” has the meaning given that term in ORS 291.371.

(2) The Oregon Department of Administrative Services shall submit a report each calendar quarter for review by the legislative review agency on the reclassification of state positions, including which positions were filled at the time of the reclassification and the difference in compensation that results from each reclassification. The legislative review agency shall take data reported under this subsection into account in making any appropriation or expenditure limitation recommendation or any allocation determination.

(Review of long term vacancies)

SECTION 2. ORS 291.263 is amended to read:

291.263. (1) As used in this section, “state agency” includes any state officer, department, board, commission or court, the Legislative Assembly, its committees, officers and employees.

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

(3) The department shall, on or before February 1 of each year, provide a report to the Legislative Fiscal Officer of any position that has remained vacant for a continuous period of at least six months. The department shall include in the report the amount and source of funds for the position. For each position included on a previous report under this subsection, the department shall notify the Legislative Fiscal Officer of conditions that affect

the position, including recruitment actions, filling the position or using the position for purposes other than what was anticipated in the legislatively approved budget. The Legislative Fiscal Officer shall review the list and make recommendations on adjustments to agency position authority to the Joint Committee on Ways and Means.

(Report on collective bargaining rollup costs and addition of steps in ranges)

SECTION 3. ORS 291.371, as amended by section 34, chapter 117, Oregon Laws 2016, is amended to read:

291.371. (1) As used in this section:

(a) "Legislative review agency" means the Joint Committee on Ways and Means during the period when the Legislative Assembly is in session and the Emergency Board or the Joint Interim Committee on Ways and Means during the interim period between sessions.

(b) "State agency" has the meaning given that term in ORS 291.002.

(2) Prior to making any changes in a compensation plan, the Oregon Department of Administrative Services shall submit the proposed changes[, *including step pay increases,*] to the legislative review agency. **The proposed changes to be submitted to the legislative review agency include:**

(a) Step pay increases;

(b) Cost of living adjustments;

(c) The addition of steps in position pay ranges;

(d) Any other actions that have an economic effect on a salary plan; and

(e) Estimates of the total cost of any salary plan changes for the current biennium and the next full biennium.

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

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

(B) Will not produce future budgetary increases; and

(C) Conforms to legislatively approved salary policies.

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

(4) State agencies shall report on a [*biennial*] **quarterly** basis to the legislative review agency. Each report shall include the number of [*vacant*] budgeted positions **that have remained vacant for a continuous period of six months**, including all job categories and classifications, within the state agency. The legislative review agency shall order the reporting state agency to show cause why the budgeted positions have not been filled and shall assess fully the impact the vacancies have on:

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

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

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

(d) Employee workload.

(Cap on state government employment based on state population)

SECTION 4. ORS 240.185 is amended to read:

240.185. (1) On and after January 1, [*1984*] **2018**, the number of persons employed by the state [*shall not exceed 1.5*] **may not exceed one** percent of the state's population of the prior year.

(2) The population figure shall be that required by ORS 190.510 to 190.610.

(3) This section applies to all full-time equivalent budgeted positions.

(4) This section does not apply to the Governor, the Secretary of State, the State Treasurer, the Supreme Court or the Legislative Assembly in the conduct of duties vested in any of them by the Oregon Constitution. However, this exception applies only to the office of the Governor and not to the executive branch of government.

(5) This section does not apply to personnel who administer unemployment insurance benefits programs of the Employment Department, to personnel who administer programs required to be implemented as a condition for the continued certification of the Employment Division Law by the United States Secretary of Labor or to personnel who administer programs implemented by the United States Department of Labor under federal law if the state is required to enter into contracts to provide such programs.

(6) In order to assess the effect of subsection (1) of this section, the Oregon Department of Administrative Services by December 31 of each even-numbered year shall conduct a workload analysis of each state agency, regardless of whether the agency is exempt from the application of subsection (1) of this section. The workload analysis of each agency shall be submitted to the Legislative Assembly prior to its convening in the subsequent odd-numbered year regular session and shall accompany the agency's budget request before the Joint Ways and Means Committee.

SECTION 5. The amendments to ORS 240.185 by section 4 of this 2017 Act become operative on January 1, 2018.

OREGON STATE LOTTERY COMMISSION TRANSFER RATE AND ADMINISTRATIVE COSTS

SECTION 6. ORS 173.420, as amended by section 39, chapter 117, Oregon Laws 2016, is amended to read:

173.420. (1) Pursuant to the policies and directions of the appointing authority, the Legislative Fiscal Officer shall:

(a) Ascertain facts and make recommendations to the Legislative Assembly concerning the Governor's budget.

(b) Ascertain facts concerning state expenditures and make estimates concerning state expenditures.

(c) Ascertain facts and make recommendations concerning the fiscal implications of the organization and functions of the state and its agencies.

(d) Ascertain facts and make recommendations on such other matters as may be provided for by joint or concurrent resolution.

(e) Furnish such assistance in the performance of their duties as is requested by the House Revenue Committee, the Senate Revenue Committee, the Legislative Revenue Officer and other legislative standing and interim committees and members of the Legislative Assembly.

(2) Pursuant to the policies and directions of the appointing authority, the Legislative Fiscal Officer may enter into contracts to carry out the functions of the Legislative Fiscal Officer.

(3) The Legislative Fiscal Officer shall cause a study to be conducted prior to the beginning of each odd-numbered year regular session of the Legislative Assembly that reports the preceding two calendar years' administrative costs and the transfer rate of the Oregon State Lottery Commission, in order to determine if additional funds may be made available for public purposes.

PROCUREMENT PRACTICE IMPROVEMENTS

SECTION 7. (1) Except as provided in subsection (2) of this section, the Legislative Policy and Research Director shall study procurement practices used by the state for the purpose of determining whether:

(a) State procurement practices can be improved so as to achieve increases in the cost effectiveness of each procurement; and

(b) State contracting agencies within the executive department that are exempt from the procurement authority of the Oregon Department of Administrative Services should remain exempt.

(2) The director may not conduct the study described in subsection (1) of this section if the Secretary of State, before the next regular session of the Legislative Assembly, announces a plan to audit the state's procurement practices.

(3) The director shall describe the methods used to conduct the study and present the results of the study in a report to the Joint Legislative Audit Committee on or before the date on which the Legislative Assembly convenes in regular session in 2019.

**UTILIZING COST INFORMATION IN
STATE BUDGET DEVELOPMENT
(Legislative Fiscal Officer review)**

SECTION 8. ORS 291.210, as amended by section 17, chapter 117, Oregon Laws 2016, is amended to read:

291.210. (1) The Oregon Department of Administrative Services and the Legislative Fiscal Officer shall prepare a tentative budget for the next biennium for which the Governor's budget is prepared. The tentative budget shall consist of the estimated revenues under ORS 291.342 for the next biennium and a preliminary estimate of the projected costs of continuing currently authorized programs for the next biennium.

(2) The Legislative Fiscal Officer shall, during the development of the legislatively adopted budget, review and update projected costs of continuing currently authorized programs for the next biennium, including:

- (a) Position vacancy assumptions;
- (b) Standard and exceptional inflation adjustments;
- (c) Mandated caseloads; and
- (d) Other assumptions used in developing the tentative budget.

(Targets for deferred maintenance)

SECTION 9. (1) Each biennium, the Governor shall propose as part of the Governor's recommended budget an amount for deferred maintenance and capital improvements on existing state-owned buildings and infrastructure that is equivalent to at least two percent of the current replacement value of the state-owned buildings and infrastructure.

(2) As used in this section, "state-owned buildings and infrastructure" does not include:

- (a) Buildings and infrastructure owned by or for the use of a public university listed in ORS 352.002 or a community college as defined in ORS 341.005; or
- (b) Transportation infrastructure, including roads and bridges.

**PUBLIC EMPLOYEES RETIREMENT
SYSTEM COST CONTAINMENT
(Employer side accounts)**

SECTION 10. ORS 291.216, as amended by section 19, chapter 117, Oregon Laws 2016, is amended to read:

291.216. (1) The Governor's budget shall include a budget message prepared by the Governor, including recommendations of the Governor with reference to the fiscal policy of the state government for the coming biennium, describing the important features of the budget, embracing a general budget summary setting forth the aggregate figures of the budget so as to show a balanced relation between the total proposed expenditures and the total anticipated income, with the basis and factors on which the estimates are made, the amount to be borrowed, and other means of financing the es-

timated expenditures for the ensuing biennium, compared with the corresponding figures for at least the last completed biennium and the current biennium.

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

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

(4) The Governor's budget shall embrace the detailed estimates of expenditures and revenues. It shall include:

(a) Statements of the bonded indebtedness of the state government, showing the actual amount of the debt service for at least the past biennium, and the estimated amount for the current biennium and the ensuing biennium, the debt authorized and unissued, the condition of the sinking funds and the borrowing capacity.

(b) The Governor's recommendations concerning tax expenditures identified under ORS 291.214.

(c) Any statements relative to the financial plan which the Governor may consider desirable or which may be required by the Legislative Assembly.

(5) The Governor's budget shall use the estimated revenues under ORS 291.342 for the fiscal year in which the budget is submitted as the basis for total anticipated income under subsection (1) of this section, subject to adjustment as may be necessary to reflect accurately projections for the next biennium.

(6)(a) The Governor's budget shall present information regarding the expenses of the state in the following categories:

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

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

(C) Special payments.

(D) Capital construction.

(E) Capital outlay.

(F) Debt service.

(b) For each category described in paragraph (a) of this subsection, the budget shall show actual expenditures for the prior biennium and estimated expenditures for the current biennium.

(c) As supplemental information to the budget, the Governor shall include an estimate of the projected costs of continuing currently authorized programs in the next biennium. The estimate shall include, but is not limited to the projected costs of:

(A) Removing one-time expenditures;

(B) Program phase-ins and phase-outs;

(C) Personnel expenses compared to existing compensation plan agreements, including position vacancy experience calculations;

(D) Inflation for services, supplies and medical costs;

(E) Transfers between state funds or accounts;

(F) Mandated caseload changes; and

(G) Debt service for previously issued debt.

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

(7) The Governor's budget shall include:

(a) The total number of positions and full-time equivalent positions included in the budget.

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

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

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

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

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

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

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

(10) The Governor's budget shall include the outcomes-based budgeting information required by ORS 291.217 (2) and (3).

(11) The Governor's budget shall include recommendations regarding available funds that could be used to make lump sum payments to the Public Employees Retirement System under ORS 238.229.

SECTION 10a. ORS 238.229 is amended to read:

238.229. (1) If a participating public employer is grouped with any other public employer for the purpose of computing employer contributions under ORS 238.225 and the individual public employer makes a lump sum payment that is in addition to the normal employer contribution of the public employer, the Public Employees Retirement Board shall adjust the amount of employer contributions to be made by the individual public employer to ensure that the benefit of the lump sum payment accrues only to the individual public employer making the payment. An individual public employer that makes a lump sum payment under the provisions of this subsection shall remain grouped with other public employers as provided by ORS 238.227 and 238A.220 for the purpose of all liabilities of the employer that are not paid under this subsection. The board by rule may establish a minimum lump sum payment that must be made by an individual public employer before adjusting employer contributions under this subsection. Notwithstanding any minimum lump sum payment established by the board, the board must allow an individual public employer to make a lump sum payment under this subsection if the payment is equal to the full amount of the individual public employer's accrued unfunded liabilities under this section and ORS chapter 238A.

(2) The board shall establish [a] **one or more** separate [account] **accounts** within the Public Employees Retirement Fund for [each] **one or more** lump sum [payment] **payments** made under this section by an individual public employer. The board shall credit to each account all interest and other income received from investment of the account funds during the calendar year. Except as provided in subsection (3) of this section, the board may not collect any administrative expense or other charge from the account or from earnings on the account. Except as provided in subsections (5) and (6) of this section, the account shall be used to offset contributions to the system that the public employer would otherwise be required to make for the liabilities against which the lump sum payment is applied.

(3) The board may charge a participating public employer expenses for administration of an account established under subsection (2) of this section in an amount not to exceed \$2,500 for the calendar year in which the account is established and for the immediately following two calendar years, and in an amount not to exceed \$1,000 per year for all subsequent years.

(4) If a participating public employer has any liabilities that are attributable to creditable service by employees of the employer before the participating public employer was grouped with other public employers under ORS 238.227, whether under this section or pursuant to board rule, any lump sum payment made under this section must be applied first against those liabilities, with the oldest liability being paid first. Any amounts remaining after application under this subsection must be deposited in a separate account established under subsection (2) of this section.

(5) Except as provided in subsection (6) of this section, if the board determines at any time after an actuarial study that the amounts in an account established under subsection (2) of this section exceed the amounts necessary to fund the employer's actuarial liabilities under the system, upon

request of the employer, the board shall apply the excess amounts to offset contributions to the individual account program that the employer has agreed to pay under ORS 238A.335 or 238A.340. The board may apply excess amounts to offset contributions to the individual account program under this subsection only to the extent that the application will not result in the balance in the account being reduced to less than the outstanding principal balance owed on the bonds issued to fund the account. If the request is made by a school district, the school district must attach to the request a copy of a resolution adopted by the district school board for the district authorizing the request. The board shall adopt rules governing offsets under the provisions of this subsection.

(6) The board shall apply any excess amounts in an account established under subsection (2) of this section to offset contributions to the individual account program pursuant to subsection (5) of this section only if the board has determined that applying the excess amounts does not cause the system or the Public Employees Retirement Fund to lose qualification as a qualified governmental retirement plan and trust under the Internal Revenue Code and under regulations adopted pursuant to the Internal Revenue Code.

(Contingency reserve account)

SECTION 11. ORS 238.670 is amended to read:

238.670. (1) At the close of each calendar year in which the earnings on the Public Employees Retirement Fund equal or exceed the assumed interest rate established by the Public Employees Retirement Board under ORS 238.255, the board shall set aside, out of interest and other income received through investment of the Public Employees Retirement Fund during that calendar year, such part of the income as the board may deem advisable, not exceeding seven and one-half percent of the combined total of such income, which moneys so segregated shall remain in the fund and constitute therein a reserve account. The board shall continue to credit the reserve account in the manner required by this subsection until the board determines that the reserve account is adequately funded for the purposes specified in this subsection, **but the board may not credit further amounts to the reserve account if the amounts in the reserve account exceed \$50 million.** Such reserve account shall be maintained and used by the board to prevent any deficit of moneys available for the payment of retirement allowances, due to interest fluctuations, changes in mortality rate or, except as provided in subsection (3) or (4) of this section, other contingency. In addition, the reserve account may be used by the board for the following purposes:

(a) To prevent any deficit in the fund by reason of the insolvency of a participating public employer. Reserves under this paragraph may be funded only from the earnings on employer contributions made under ORS 238.225.

(b) To pay any legal expenses or judgments that do not arise in the ordinary course of adjudicating an individual member's benefits or an individual employer's liabilities.

[(c) To provide for any other contingency that the board may determine to be appropriate.]

(2) At the close of each calendar year, the board shall set aside, out of interest and other income received during the calendar year, after deducting the amounts provided by law and to the extent that such income is available, a sufficient amount to credit to the reserves for pension accounts and annuities varying percentage amounts adopted by the board as a result of periodic actuarial investigations. If total income available for distribution exceeds those percentages of the total accumulated contributions of employees and employers, the reserves for pensions and annuities shall participate in such excess.

(3) The board may set aside, out of interest and other income received through investment of the fund, such part of the income as the board considers necessary, which moneys so segregated shall remain in the fund and constitute one or more reserve accounts. Such reserve accounts shall be maintained and used by the board to offset gains and losses of invested capital. The board, from time to time, may cause to be transferred from the reserve account provided for in subsection (1) of this section to a reserve account provided for in this subsection such amount as the board de-

termines to be unnecessary for the purposes set forth in subsection (1) of this section and to be necessary for the purposes set forth in this subsection.

(4) The board may provide for amortizing gains and losses of invested capital in such instances as the board determines that amortization is preferable to a reserve account provided for in subsection (3) of this section.

(5) At least 30 days before crediting any interest and other income received through investment of the Public Employees Retirement Fund to any reserve account in the fund, the board shall submit a preliminary proposal for crediting to the appropriate legislative review agency, as defined in ORS 291.371 (1), for its review and comment.

(Determination of unfunded accrued liability)

SECTION 12. ORS 238.605 is amended to read:

238.605. (1) At least once every two years the **Public Employees Retirement** Board shall cause a competent actuary familiar with public systems of retirement and death benefits to prepare a report evaluating the current and prospective assets and liabilities of the system and indicating its current and prospective financial condition. In preparing the report the actuary shall investigate the mortality, disability, service and other experience of the members of, and employers participating in the system, shall state fully the condition of the system, and shall make such recommendations as the actuary deems advisable to facilitate administering it properly. The board shall publish and distribute a summary of the report to all the public employers participating in the system. The board may authorize the transfer of any portion of the funds collected under the provisions of ORS 238.225 to carry out the recommendations of the actuary.

(2) **For the purpose of evaluating the system under this section and for the purpose of issuing reports on the system, the actuary and the board shall determine the unfunded actuarial liability of the system by calculating the difference between the actuarial value of the current and prospective liabilities of the system and the actuarial value of the assets of the system, including any lump sum payments made under ORS 238.229. When reporting on the unfunded actuarial liability in any official documentation or report, the board shall report on the unfunded actuarial liability as determined under this subsection.**

STATE BORROWING

SECTION 13. Section 14 of this 2017 Act is added to and made a part of ORS chapter 286A.

SECTION 14. (1) **The State of Oregon recognizes that adherence to a debt management policy that provides guidelines for debt issuance is necessary to limit the long-term impact of debt on the budget of the state, to preserve the credit rating of the state and to maintain available debt capacity to meet the continuing capital investment needs of this state. Accordingly, it is the policy of the State of Oregon that, in determining the total amount of bonds to be authorized each biennium, the Legislative Assembly shall:**

(a) **Limit the issuance of bonds to projects or programs that require a minimum amount of state funding, as determined by the Legislative Assembly each biennium, and direct that projects or programs with funding needs that are under the minimum amount be funded with current resources; and**

(b) **Prohibit the issuance of bonds for ongoing operating expenditures of the state.**

(2) **This section does not require the Legislative Assembly to prohibit:**

(a) **Borrowing for ongoing operating expenditures of the state as authorized under ORS 286A.045;**

(b) **Borrowing to finance pension obligations under ORS 238.692 to 238.698;**

(c) **Borrowing to finance activities related to environmental remediation;**

(d) The use of bond proceeds to pay for administration or management of projects or programs funded by the bond proceeds; or

(e) The use of interest or investment earnings on bond proceeds for ongoing operating expenditures.

DEBT COLLECTION PRACTICES

SECTION 15. ORS 293.231 is amended to read:

293.231. (1) Except as provided in subsections [(4) to (9)] **(4) to (7)** of this section, a state agency, unless otherwise prohibited by law, shall offer for assignment every liquidated and delinquent account to [a private collection agency or to] the Department of Revenue as provided in ORS 293.250 not later than:

(a) Ninety days from the date the account was liquidated if no payment has been received on the account within the 90-day period; or

(b) Ninety days from the date of receipt of the most recent payment on the account.

(2) Nothing in subsection (1) of this section prohibits a state agency from offering for assignment a liquidated and delinquent account to [a private collection agency] **the Department of Revenue** at any time within the 90-day period.

[(3) If, after a reasonable time, the private collection agency is unable to collect the account, the private collection agency shall notify the state agency that assigned the account that it has been unable to collect the account and shall relinquish the account to the state agency. A private collection agency that collects an account under this section shall be held to the same standard of confidentiality, service and courtesy imposed on the state agency that assigned the account.]

[(4)] **(3)(a)** If a state agency assigns a liquidated and delinquent account to the Department of Revenue as provided in ORS 293.250, the department [shall have] **has** six months from the date of assignment to collect a payment. If the department does not collect a payment within that six-month period or if six months have elapsed since the date of receipt of the most recent payment on the account, the department shall [notify the state agency. The state agency shall then] immediately offer for assignment the debt to a private collection agency[.] **and notify the state agency of the assignment.**

(b) Nothing in this subsection prohibits the department from offering for assignment the debt to a private collection agency at any time within the six-month period.

[(5)] (4) The provisions of subsection (1) of this section do not apply to a liquidated and delinquent account that is prohibited by state or federal law or regulation from assignment or collection.

[(6)] (5) The Oregon Department of Administrative Services may adopt rules exempting specified kinds of liquidated and delinquent accounts from the time periods established in subsections (1), (2) and [(4)] (3) of this section.

(6)(a) Notwithstanding subsection (1) of this section, liquidated and delinquent accounts that originate in the Department of Revenue shall be offered for assignment by the department to a private collection agency not later than one year from the date of the most recent payment on the account.

(b) Nothing in this subsection prohibits the Department of Revenue from offering for assignment a liquidated and delinquent account that originates in the department to a private collection agency at any time within the one-year period.

[(7)] (c) The Oregon Department of Administrative Services shall adopt rules exempting liquidated and delinquent accounts that originate in the [Department of Revenue or the] Employment Department from the time periods established in subsections (1), (2) and [(4)] (3) of this section.

[(8) A liquidated and delinquent account that is subject to assignment under this section shall be assigned to a private collection agency if more than one year has elapsed without a payment on the account.]

[9] (7) Notwithstanding [subsection (1)] **subsections (1) and (6)** of this section, a state agency **or the Department of Revenue** may, at its discretion, choose not to offer for assignment to **the Department of Revenue or a private collection agency** a liquidated and delinquent account that:

- (a) Is secured by a consensual security interest in real or personal property;
- (b) Is a court-ordered judgment that includes restitution or a payment to the Department of Justice Crime Victims' Assistance Section;
- (c) Is in litigation, including bankruptcy, arbitration and mediation;
- (d) Is a student loan owed by a student who is attending school;
- (e) Is owed to a state agency by a local or state government or by the federal government;
- (f) Is owed by a debtor who is hospitalized in a state hospital as defined in ORS 162.135, who receives public assistance as defined in ORS 411.010 or who receives medical assistance as defined in ORS 414.025;
- (g) Is owed by a debtor who is imprisoned;
- (h) Is less than \$100, including penalties;
- (i) Would result in loss of federal funding if assigned;
- (j) Is owed by an estate and the state agency has notice that the estate has closed; or
- (k) Is eligible for suspension of collection as provided in ORS 305.155.

[10] (8) Nothing in this section prohibits a state agency from collecting a [tax offset] **setoff against any refunds or sums due to the debtor from the state agency** after a liquidated and delinquent account is assigned to a private collection agency.

[11] (9) For the purposes of this section, [a state agency shall be deemed] **the Department of Revenue is considered** to have offered for assignment to **a private collection agency** an account if:

(a) The terms of the offer are of a type generally acceptable within the collections industry for the type of account offered for assignment; and

(b) The offer is made to a private collection agency that engages in collecting on accounts of the type sought to be assigned or is made generally available to private collection agencies through a bid or request for proposal process.

[12(a)] (10)(a) A state agency that assigns a liquidated and delinquent account to the Department of Revenue [under ORS 293.250] may add a fee to be paid by the debtor to the amount of the liquidated and delinquent account. **The fee may include amounts attributable to collections conducted by private collection agencies as provided in subsection (3) of this section.**

(b) A fee may not be added under this subsection unless the state agency has provided notice to the debtor:

- (A) Of the existence of the debt;
- (B) That the debt may be assigned to the Department of Revenue for collection; and
- (C) Of the amount of the fee that may be added to the debt under this subsection.

[13] (11) [A state agency that retains a private collection agency under this section] **For any liquidated and delinquent account that the Department of Revenue assigns to a private collection agency under subsection (6) of this section, the department** may add a fee to the amount of the liquidated and delinquent account as provided in ORS 697.105. A fee may not be added under this subsection unless the [state agency] **department** has provided notice to the debtor:

- (a) Of the existence of the debt;
- (b) That the debt may be assigned to a private collection agency for collection; and
- (c) Of the amount of the fee that may be added to the debt under this subsection.

[14] (12) Except as provided by federal law, [the] **a state agency or the Department of Revenue** may not add a fee under subsection [(13)] (10) or (11) of this section that exceeds the collection fee of the private collection agency **or the department**.

(13)(a) **A private collection agency that collects an account under this section shall be held to the same standard of confidentiality, service and courtesy imposed on the Department of Revenue.**

(b) The department shall set forth in writing the standards described in paragraph (a) of this subsection and shall transmit the writing to a private collection agency before assigning an account to the agency under this section.

(14)(a) A state agency may recall an account assigned to the Department of Revenue if the account is deemed uncollectible under ORS 293.240 or settled by compromise under ORS 293.240, or if the account may not be collected under state or federal law or is eligible for cancellation under state or federal law.

(b) If an account recalled under this subsection was assigned to a private collection agency, the department shall cancel and recall the account from the private collection agency.

SECTION 16. ORS 293.250 is amended to read:

293.250. (1) There is created a Collections Unit in the Department of Revenue.

(2) The Department of Revenue may render assistance in the collection of any delinquent account owing to any state agency, or to a county pursuant to a judgment obtained under ORS 169.151, assigned by the state agency or county to which the delinquent account is owed to the department for collection. The department may prescribe criteria for the kinds of accounts that may be assigned under this section, including a minimum dollar amount owed.

(3)(a) Subject to rules prescribed by the Oregon Department of Administrative Services for collection of delinquent accounts owing to state agencies or to counties, the Department of Revenue shall render assistance in the collection and shall charge the state agencies or counties separately for the cost of assistance. The charges may not exceed the proceeds of collection credited to the state agency or county for the same biennium. The Department of Revenue may designate a single percentage to retain from the proceeds of collection as a charge for the cost of assistance. If the Department of Revenue finds that accounts assigned to the department for collection by certain state agencies or counties lack sufficient information to properly and efficiently identify the debtor or that the account information must be put into a form usable by the department in order to efficiently provide collection services, the department may establish a separate percentage charge to be retained from collections for the state agency or county. The charge must reflect the average of the actual cost to provide collection services for all accounts assigned by that state agency or county.

(b) In providing assistance, the Department of Revenue shall make all reasonable efforts to collect the delinquent accounts including the setoff of any refunds or sums due to the debtor from the department or any other state agency. The department may offset any refunds or sums due to the debtor from the department or any other state agency against delinquent accounts assigned by a county to the department for collection under this section.

(c) No setoff may be made by the Department of Revenue unless the debt is in a liquidated amount.

[(d) When the Department of Revenue has notified the assigning state agency or county that a refund or other sum due to the debtor is available for setoff, the debtor may arrange with the department or county for payment of the debt in full before the setoff is made. However, the assigning state agency or county may not enter into any agreement with the debtor for payment of the debt before the setoff is made.]

[(e) At the time any setoff is made, the debtor shall be notified by the Department of Revenue of its intention to apply sums due from a state agency against the debtor's delinquent account. The notice shall provide that the debtor within 30 days may request a hearing before the claimant state agency or county. No issues at the hearing may be considered that have been litigated previously, or if the debtor after being given due notice of rights of appeal has failed to exercise them timely.]

(d) At the time any setoff is made, the Department of Revenue shall notify the debtor of the sums due to the debtor from a state agency that are applied against the debtor's delinquent account. The notice must provide that the debtor may, within 30 days and in a manner prescribed by the department, contest the setoff and request a hearing before the

department. No issues may be considered at the hearing that were previously litigated or that the debtor failed to raise timely after being given due notice of rights of appeal.

[(f)] (e) All moneys received by the Department of Revenue in payment of charges made under paragraph (a) of this subsection shall be paid into the State Treasury and deposited in a miscellaneous receipts account for the department.

[(g)] (f) Net proceeds of collections of delinquent accounts shall be credited to the account or fund of the state agency or county to which the debt was originally owing.

(4)(a) In providing assistance in the collection of any delinquent account under this section, the Department of Revenue may issue a warrant for the collection of the delinquent account. The warrant may be recorded in the County Clerk Lien Record maintained under ORS 205.130.

(b) A warrant may not be issued under this subsection unless the debt is in a liquidated amount.

(c) The amount of any warrant issued under this subsection shall include the [principal] amount of the debt, any added penalties or interest attributable to the delinquent account and any costs associated with recording, indexing or service of the warrant and any satisfaction or release thereof.

(d) A warrant may not be issued under this subsection before the debtor has been notified that the department intends to issue the warrant and of the collection action that may be taken under the warrant.

(5) Except as prohibited by federal law and notwithstanding any provision of state law, for purposes of collecting debts assigned to the Department of Revenue under ORS 293.231, the Collections Unit created under subsection (1) of this section has access to all data and other information available to the department for any purpose allowed by law.

[(5)] (6) Nothing in this section prohibits the collection of:

(a) A child or spousal support obligation as provided in ORS 25.610; or

(b) Criminal judgments that impose monetary obligations, including judgments requiring the payment of fines, costs, assessments, compensatory fines, attorney fees, forfeitures or restitution.

[(6)] (7) As used in this section, "state agency" means any state officer, board, commission, corporation, institution, department or other state organization.

SECTION 17. ORS 293.226 is amended to read:

293.226. (1) Subject to subsection (2) of this section, a state agency [that requests a person to] **may request that a person voluntarily supply the person's Social Security number for use in collecting debts owed to the State of Oregon** on any document relating to any monetary obligation or transaction. **A state agency that so requests shall [may] include on the document a notice disclosing that the Social Security number is requested for and may be used for state agency debt collection activities.**

(2) The Oregon Department of Administrative Services shall adopt rules:

(a) Specifying the form of the notice, including provisions specifying when the notice must state [that] **whether** the disclosure of a Social Security number is voluntary **or mandatory**; and

(b) Setting procedures for the sharing of Social Security numbers between state agencies, **and between the Department of Revenue** and private collection agencies, for the purpose of collecting debts owed state agencies.

(3) If a person is required to provide the person's Social Security number to [the requesting] a state agency under federal or state law **for purposes other than collection of a debt owed to the State of Oregon**, [this section does not apply.] **the agency may not use the Social Security number for debt collection purposes, except:**

(a) **When the agency requests that the person voluntarily disclose the person's Social Security number for the purpose of collecting debts owed to the State of Oregon, the agency provides the notice required under subsection (1) of this section and the person subsequently voluntarily provides the person's Social Security number; or**

(b) **When otherwise allowed under state or federal law.**

(4) A state agency, the Department of Revenue [under ORS 293.250] or a private collection agency [assigned] **that is collecting** a liquidated and delinquent account [under ORS 1.197 or 293.231] may use a Social Security number collected under this section, or collected as otherwise

allowed by law, to collect any debt owed a state agency or local government by the person associated with the Social Security number.

(5) Nothing in this section authorizes a state agency, the Department of Revenue or a private collection agency *[assigned an]* **that is collecting a liquidated and delinquent** account *[under ORS 1.197, 293.231 or 293.250]* to use or disclose a Social Security number for any reason other than a reason specified in this section.

(6) Rules adopted under subsection (2) of this section do not apply to state courts and commissions, departments and divisions in the judicial branch of state government, the Secretary of State or the State Treasurer.

(7) Except as provided in subsection (6) of this section, as used in this section, "state agency" means any state officer, board, commission, corporation, institution, department or other state organization.

SECTION 18. ORS 293.229 is amended to read:

293.229. (1) Not later than October 1 of each fiscal year, each state agency shall submit a report to the Legislative Fiscal Office that describes the status of that agency's liquidated and delinquent accounts and efforts made by that agency to collect liquidated and delinquent accounts during the previous fiscal year. The report required under this subsection shall be in a form prescribed by the Legislative Fiscal Office and shall include but not be limited to:

(a) Beginning balance and total number of all liquidated and delinquent accounts;
(b) New liquidated and delinquent accounts added during the last preceding fiscal year;
(c) Total collections of liquidated and delinquent accounts;
(d) Total amount and total number of liquidated and delinquent accounts that have been written off;

(e) Total number and ending balance of all liquidated and delinquent accounts;

[(f) Total amount of liquidated and delinquent accounts turned over to private collection agencies and total amount collected by those agencies under ORS 293.231;]

(f) Total amount of liquidated and delinquent accounts assigned to the Department of Revenue and the total amount collected by the department under ORS 293.250;

(g) Total amount of liquidated and delinquent accounts assigned to private collection agencies and the total amount collected by private collection agencies under ORS 293.231;

[(g)] **(h) Total number and total amount of all liquidated and delinquent accounts exempted under ORS 293.233;**

[(h)] **(i) Total number and ending balance of all liquidated and delinquent accounts that have been placed in suspended collection status under ORS 305.155; and**

[(i)] **(j) A statement indicating whether the agency has liquidated and delinquent accounts that are not exempt under ORS 293.233, or are otherwise prohibited or exempted by law from assignment, for which no payment has been received for more than 90 days and that have not been assigned to *[a private collection agency or to]* the Department of Revenue under ORS 293.231.**

(2) If a state agency reports under subsection (1) of this section that the total ending balance of its liquidated and delinquent accounts is \$50 million or greater, the state agency shall, not later than three months after it submits the report under subsection (1) of this section, submit an additional report to the committees or interim committees of the Legislative Assembly related to ways and means that:

(a) Describes major categories of liquidated and delinquent accounts held by the state agency;

(b) Describes circumstances under which the state agency writes off or adjusts liquidated and delinquent amounts or removes an account from liquidated and delinquent status;

(c) Describes actions undertaken by the state agency to reduce the amount of liquidated and delinquent debt owed to it at the end of each fiscal year; and

(d) Sets forth a plan for future actions that will reduce the amount of liquidated and delinquent debt owed to the state agency at the end of each fiscal year and describes any additional resources that are necessary to carry out the plan.

[(2)] (3) The Legislative Fiscal Office shall produce an annual report not later than December 31 of each fiscal year on the status of liquidated and delinquent accounts of state agencies and the judicial branch of state government. The report shall be based on the reports submitted by state agencies as required in this section and on reports submitted by the judicial branch of state government under ORS 1.195.

[(3)] (4) The report required under subsection [(2)] (3) of this section shall:

(a) List those state agencies, including the judicial branch of state government, that have liquidated and delinquent accounts that are not exempt under ORS 1.198, 1.199 or 293.233, or are otherwise prohibited or exempted by law from assignment, for which no payment has been received for more than 90 days and that have not been assigned to a private collection agency or to the Department of Revenue under ORS 1.197 or **assigned to the Department of Revenue under** 293.231;

(b) List separately information about the liquidated and delinquent accounts of the Secretary of State, the State Treasurer, other state agencies in the executive branch of state government and the judicial branch of state government; and

(c) Include any other information the Legislative Fiscal Office determines is necessary to describe the status of liquidated and delinquent accounts across offices and branches of state government.

[(4)] (5) Notwithstanding ORS 182.460, 284.118, 284.375, 352.138, 353.100, 377.836, 421.352, 656.753 and 757.552, for purposes of this section, "state agency" also includes semi-independent state agencies listed in ORS 182.454, the Oregon Tourism Commission, the Oregon Film and Video Office, the Travel Information Council, the Children's Trust Fund of Oregon Foundation, Oregon Corrections Enterprises, Oregon Health and Science University, the State Accident Insurance Fund Corporation, the Oregon Utility Notification Center and public universities listed in ORS 352.002.

SECTION 19. ORS 293.233 is amended to read:

293.233. (1) A state agency may use rules adopted by the Oregon Department of Administrative Services for exempting liquidated and delinquent accounts from assignment to **the Department of Revenue or** a private collection agency. The state agency shall provide documentation and justification for exempting liquidated and delinquent accounts from assignment.

(2) The Oregon Department of Administrative Services shall adopt rules governing the procedure that a state agency may follow in exempting a liquidated and delinquent account from assignment, including but not limited to adequacy of the documentation and justification that a state agency is required to provide under this section.

SECTION 20. ORS 293.240 is amended to read:

293.240. (1) If a state agency has made all reasonable efforts to collect money owed to *[it, including money owed on a liquidated and delinquent account that has been relinquished by a private collection agency under ORS 293.231,]* **the agency** and has determined that the money and any interest or penalties on the money are uncollectible, the agency may write off the debt on its accounts.

(2) Before determining that money is uncollectible under subsection (1) of this section, a state agency must adopt criteria for determining when money is uncollectible. The criteria must include the right of offset and must be approved by the Attorney General.

(3)(a) A state agency, the Department of Revenue collecting on an account under ORS 293.250 or a private collection agency collecting on an account under ORS 293.231[,] may propose and accept offers of compromise for settlement of a debt owed to a state agency. Before proposing or accepting an offer of compromise, a state agency must adopt criteria for determining when offers of compromise may be made. The criteria must be approved by:

(A) The Attorney General in the case of the Secretary of State and State Treasurer;

(B) The Chief Justice in the case of all state courts and all commissions, departments and divisions in the judicial branch of state government; or

(C) The Oregon Department of Administrative Services and the Attorney General in the case of other state agencies.

(b) A private collection agency or the Department of Revenue shall accept an offer of compromise for settlement of a debt owed to a state agency:

(A) In accordance with the criteria adopted by the state agency to which the debt is owed; and

(B) With the authorization of the state agency to which the debt is owed.

(c) This subsection does not allow the compromise of a criminal money judgment that requires a defendant to pay restitution or a compensatory fine.

(4) This section does not apply to debts owed to a state agency for which a procedure for compromise, release, discharge, waiver, cancellation or other form of settlement for the debt for reasons other than uncollectibility is by law made specially applicable to the state agency.

SECTION 21. ORS 293.252 is amended to read:

293.252. (1) The Oregon Department of Administrative Services shall monitor state agency debt collection functions described by law and assist state agencies in efforts to improve the collection of delinquent debts owed to state agencies. The department's duties under this subsection include, but are not limited to:

(a) Providing training to state agencies regarding processing and managing accounts receivable in compliance with applicable law and state policies.

(b) Providing technical assistance to state agencies in resolving challenges in processing and managing accounts receivable and developing financial administrative systems to improve the handling of liquidated and delinquent accounts.

(c) Developing performance standards for state debt collection, including but not limited to standards defining what constitutes liquidated and delinquent accounts and when [*state agencies may write off*] debt **may be written off** pursuant to ORS 293.240.

(d) Working with state agencies to improve the quality and value of data that each state agency submits to the Legislative Fiscal Office for purposes of ORS 293.229.

(e) Submitting an annual management report to the Legislative Assembly not later than December 31 of each fiscal year, in conjunction with the report of the Legislative Fiscal Office produced under ORS 293.229, that identifies important issues and significant trends in state agency debt collection practices and describes and evaluates efforts by state agencies to improve the collection of delinquent debt.

(2) The department shall adopt policies:

(a) Providing guidance for the collection of liquidated and delinquent accounts owing to state agencies.

(b) Setting procedures for state agencies to account for and manage information regarding the agency's liquidated and delinquent accounts.

(c) After consultation with the Attorney General, setting criteria for effective and efficient assignment of liquidated and delinquent accounts to the Department of Revenue or private collection agencies, and setting performance measurements to be used in the application of the criteria.

(d) For the allocation, form and amount of charges or fees added to liquidated and delinquent accounts under ORS 293.231, 293.250 and 697.105.

(e) Setting exemptions or adjustments for state agencies that are prohibited by law from adding or collecting fees under ORS 293.231, 293.250 or 697.105 and for agencies for which the addition or collection of the fees is not feasible given the agency resources available for collection of accounts receivable.

(f) For the improvement of communications regarding liquidated and delinquent accounts [*between*] **among** state agencies[,] **and between** private collection agencies and the Department of Revenue.

(g) Describing conditions under which a state agency may request and collect Social Security numbers in accordance with state and federal law when it is reasonably foreseeable that a person may owe the state agency a liquidated and delinquent amount as a result of a transaction or activity.

(h) After consultation with the Attorney General, setting criteria under which state agencies, **the Department of Revenue** and private collection agencies may propose and accept offers of compromise as provided in ORS 293.240.

(3) As used in this section:

(a) "State agency" means any state officer, board, commission, corporation, institution, department or other state organization.

(b) "State agency" does not include all state courts and all commissions, departments and divisions in the judicial branch of state government, the Secretary of State and the State Treasurer.

SECTION 22. ORS 137.118 is amended to read:

137.118. (1) Judgments in criminal actions that impose monetary obligations, including judgments requiring the payment of fines, costs, assessments, compensatory fines, attorney fees, forfeitures or restitution, may be assigned by the state, by a municipal court or by a justice court for collection.

(2)(a) The state may assign a judgment to the Department of Revenue or a private collection agency.

(b) A justice court may assign a judgment to a private collection agency or, in a criminal action, to the Department of Revenue for the purposes described in ORS 156.315.

(c) A municipal court may assign a judgment to:

(A) A private collection agency; or

(B) The Department of Revenue for the purposes described in subsections (6) to (8) of this section, if the judgment was entered in a criminal action and part of the judgment is payable to the State of Oregon.

(d) Nothing in this subsection limits the right of a municipal court or a justice court to assign for collection judgments in matters other than criminal actions.

(3) A municipal or justice court may add to any judgment in a criminal action that includes a monetary obligation a fee for the cost of collection if the court gives the defendant a period of time to pay the obligation after the date of imposition of the sentence or after the date of the hearing or proceeding that results in the imposition of the financial obligation. The fee may not exceed 25 percent of the monetary obligation imposed by the court without the addition of the cost of collection and may not be more than \$250. The fee shall be waived or suspended by the court if the defendant pays the monetary obligation in the manner required by the court.

(4) A state court shall add to any judgment in a criminal action that includes a monetary obligation the fees required by ORS 1.202.

(5) As used in subsections (1) to (5) of this section, "criminal action" has the meaning given that term in ORS 131.005.

(6) If part of a judgment in a criminal action, as described in subsections (1) to (5) of this section, is payable to the State of Oregon, a municipal court may assign the judgment to the Collections Unit in the Department of Revenue for the following purposes:

(a) To determine whether refunds or other sums are owed to the debtor by the department; and

(b) To deduct the amount of debt from any refunds or other sums owed to the debtor by the department.

(7) If the Collections Unit determines that refunds or other sums are owed to the debtor, the department shall deduct the amount of the debt from any refunds or other sums owed to the debtor by the department. After also deducting costs of its actions under subsections (6) to (8) of this section, the department shall remit the amount deducted from refunds or other sums owed to the debtor to the municipal court that assigned the judgment.

(8) A debtor whose account is assigned to the Department of Revenue for setoff under subsections (6) to (8) of this section is entitled to the notice required by ORS 293.250 **(3)(d)** [(3)(e)] and to the opportunity for payment in ORS 293.250 (3)(d)].

SECTION 23. ORS 156.315 is amended to read:

156.315. (1) A justice court may assign a judgment in a criminal action, as described in ORS 137.118 (1) to (5), to the Collections Unit in the Department of Revenue for the following purposes:

(a) To determine whether refunds or other sums are owed to the debtor by the department; and

(b) To deduct the amount of the debt from any refunds or other sums owed to the debtor by the department.

(2) If the Collections Unit determines that refunds or other sums are owed to the debtor, the department shall deduct the amount of the debt from any refunds or other sums owed to the debtor by the department. After also deducting costs of its actions under this section, the department shall remit the amount deducted from refunds or other sums owed to the debtor to the justice court that assigned the judgment.

(3) A debtor whose account is assigned to the Department of Revenue for setoff under this section is entitled to the notice required by ORS 293.250 (3)(d) [(3)(e) and to the opportunity for payment in ORS 293.250 (3)(d)].

SECTION 24. (1) The amendments to ORS 137.118, 156.315, 293.226, 293.229, 293.231, 293.233, 293.240, 293.250 and 293.252 by sections 15 to 23 of this 2017 Act become operative July 1, 2018.

(2) The Oregon Department of Administrative Services, the Department of Revenue or any other state agency may take any action before the operative date specified in subsection (1) of this section that is necessary for the department or state agency to exercise, on and after the operative date specified in subsection (1) of this section, all the duties, functions and powers conferred on the department or state agency by the amendments to ORS 137.118, 156.315, 293.226, 293.229, 293.231, 293.233, 293.240, 293.250 and 293.252 by sections 15 to 23 of this 2017 Act.

EMPLOYEE BENEFIT COST CONTAINMENT
(Public Employees' Benefit Board and Oregon
Educators Benefit Board merger)

SECTION 25. (1) In order to promote efficiency and avoid duplication of effort, the Public Employees' Benefit Board and the Oregon Educators Benefit Board shall develop a plan for merger as described in this section.

(2) The Public Employees' Benefit Board and the Oregon Educators Benefit Board shall each appoint an equal number of voting members from the Public Employees' Benefit Board and voting members from the Oregon Educators Benefit Board to a combined executive committee.

(3) The executive committee shall select one of its members as chair of the committee. The committee shall meet at such times as determined by the chair or a majority of the committee. A majority of the committee constitutes a quorum for the transaction of business of the committee.

(4) The executive committee shall develop a plan for the orderly merger of the functions and operations of the Public Employees' Benefit Board and the Oregon Educators Benefit Board. The executive committee shall present the plan developed under this subsection, as well as a cost-benefit analysis of the plan, to the Joint Committee on Ways and Means no later than February 1, 2018.

SECTION 26. (1) The executive director of the Public Employees' Benefit Board shall also serve as the executive director of the Oregon Educators Benefit Board.

(2) The executive director shall combine administrative functions and operations of the Public Employees' Benefit Board and the Oregon Educators Benefit Board to the greatest extent practicable to avoid duplication of effort and to promote efficiency, to the extent the combination of functions and operations is consistent with applicable law and administrative rule.

(3) At least once each year, the executive director shall report to the interim committees of the Legislative Assembly related to health on the status of the merger of the functions and operations of the boards and actions taken by the executive director to carry out the plan developed under section 25 of this 2017 Act.

(Annual growth rate limit for health benefits)

SECTION 27. ORS 243.135, as amended by section 4, chapter 389, Oregon Laws 2015, is amended to read:

243.135. (1) Notwithstanding any other benefit plan contracted for and offered by the Public Employees' Benefit Board, the board shall contract for a health benefit plan or plans best designed to meet the needs and provide for the welfare of eligible employees, the state and the local governments. In considering whether to enter into a contract for a plan, the board shall place emphasis on:

- (a) Employee choice among high quality plans;
- (b) A competitive marketplace;
- (c) Plan performance and information;
- (d) Employer flexibility in plan design and contracting;
- (e) Quality customer service;
- (f) Creativity and innovation;
- (g) Plan benefits as part of total employee compensation;
- (h) The improvement of employee health; and
- (i) Health outcome and quality measures, described in ORS 413.017 (4), that are reported by the plan.

(2) The board may approve more than one carrier for each type of plan contracted for and offered but the number of carriers shall be held to a number consistent with adequate service to eligible employees and their family members.

(3) Where appropriate for a contracted and offered health benefit plan, the board shall provide options under which an eligible employee may arrange coverage for family members **who are not enrolled in another health benefit plan offered by the board or the Oregon Educators Benefit Board. An eligible employee who declines coverage in a health benefit plan offered by the Public Employees' Benefit Board or the Oregon Educators Board and who is enrolled as a spouse or family member in another health benefit plan offered by the Public Employees' Benefit Board or the Oregon Educators Benefit Board may not be paid the employer contribution for the plan that was declined.**

(4) Payroll deductions for costs that are not payable by the state or a local government may be made upon receipt of a signed authorization from the employee indicating an election to participate in the plan or plans selected and the deduction of a certain sum from the employee's pay.

(5) In developing any health benefit plan, the board may provide an option of additional coverage for eligible employees and their family members at an additional cost or premium.

(6) Transfer of enrollment from one plan to another shall be open to all eligible employees and their family members under rules adopted by the board. Because of the special problems that may arise in individual instances under comprehensive group practice plan coverage involving acceptable provider-patient relations between a particular panel of providers and particular eligible employees and their family members, the board shall provide a procedure under which any eligible employee may apply at any time to substitute a health service benefit plan for participation in a comprehensive group practice benefit plan.

(7) The board shall evaluate a benefit plan that serves a limited geographic region of this state according to the criteria described in subsection (1) of this section.

(8)(a) The board shall use payment methodologies in self-insured health benefit plans offered by the board that are designed to limit the growth in per-member expenditures for health services to no more than 3.4 percent per year.

(b) The board shall adopt policies and practices designed to limit the annual increase in premium amounts paid for contracted health benefit plans to 3.4 percent.

(9) A carrier or third party administrator that contracts with the board to provide or administer a health benefit plan shall, at least once each plan year, conduct an audit of the

health benefit plan enrollees' continued eligibility for coverage as spouses or dependents or any other basis that would affect the cost of the premium for the plan.

SECTION 28. ORS 243.866, as amended by section 5, chapter 389, Oregon Laws 2015, is amended to read:

243.866. (1) The Oregon Educators Benefit Board shall contract for benefit plans best designed to meet the needs and provide for the welfare of eligible employees, the districts and local governments. In considering whether to enter into a contract for a benefit plan, the board shall place emphasis on:

- (a) Employee choice among high-quality plans;
- (b) Encouragement of a competitive marketplace;
- (c) Plan performance and information;
- (d) District and local government flexibility in plan design and contracting;
- (e) Quality customer service;
- (f) Creativity and innovation;
- (g) Plan benefits as part of total employee compensation;
- (h) Improvement of employee health; and
- (i) Health outcome and quality measures, described in ORS 413.017 (4), that are reported by the plan.

plan.

(2) The board may approve more than one carrier for each type of benefit plan offered, but the board shall limit the number of carriers to a number consistent with adequate service to eligible employees and family members **who are not enrolled in another health benefit plan offered by the board or the Public Employees' Benefit Board. An eligible employee who declines coverage in a health benefit plan offered by the Oregon Educators Benefit Board or the Public Employees' Benefit Board and who is enrolled as a spouse or family member in another health benefit plan offered by the Oregon Educators Benefit Board or the Public Employees' Benefit Board may not be paid the employer contribution for the plan that was declined.**

(3) When appropriate, the board shall provide options under which an eligible employee may arrange coverage for family members under a benefit plan.

(4) A district or a local government shall provide that payroll deductions for benefit plan costs that are not payable by the district or local government may be made upon receipt of a signed authorization from the employee indicating an election to participate in the benefit plan or plans selected and allowing the deduction of those costs from the employee's pay.

(5) In developing any benefit plan, the board may provide an option of additional coverage for eligible employees and family members at an additional premium.

(6) The board shall adopt rules providing that transfer of enrollment from one benefit plan to another is open to all eligible employees and family members. Because of the special problems that may arise involving acceptable provider-patient relations between a particular panel of providers and a particular eligible employee or family member under a comprehensive group practice benefit plan, the board shall provide a procedure under which any eligible employee may apply at any time to substitute another benefit plan for participation in a comprehensive group practice benefit plan.

(7) An eligible employee who is retired is not required to participate in a health benefit plan offered under this section in order to obtain dental benefit plan coverage. The board shall establish by rule standards of eligibility for retired employees to participate in a dental benefit plan.

(8) The board shall evaluate a benefit plan that serves a limited geographic region of this state according to the criteria described in subsection (1) of this section.

(9)(a) The board shall use payment methodologies in self-insured health benefit plans offered by the board that are designed to limit the growth in per-member expenditures for health services to no more than 3.4 percent per year.

(b) The board shall adopt policies and practices designed to limit the annual increase in premium amounts paid for contracted health benefit plans to 3.4 percent.

(10) A carrier or third party administrator that contracts with the board to provide or administer a health benefit plan shall, at least once each plan year, conduct an audit of the

health benefit plan enrollees' continued eligibility for coverage as spouses or dependents or any other basis that would affect the cost of the premium for the plan.

(Limitation on benefit plan non-primary care rates)

SECTION 29. ORS 243.256 is amended to read:

243.256. *[(1) A hospital that provides services or supplies under a benefit plan offered by the Public Employees' Benefit Board shall be reimbursed using the methodology prescribed by the Oregon Health Authority under ORS 442.392 and may not be reimbursed for each service or supply provided.]*

[(2) This section applies to hospital payments made by a carrier under a contract with the board and to hospital payments made under a self-insurance program administered by a third party administrator on behalf of the board.]

(1) A carrier that contracts with the Public Employees' Benefit Board to provide to eligible employees and their dependents a benefit plan that reimburses the cost of inpatient or outpatient hospital services or supplies shall reimburse a claim for the cost of a hospital service or supply that is covered by, or is similar to a service or supply that is covered by, the Medicare program in an amount that does not exceed:

(a) For claims submitted by in-network hospitals, 200 percent of the amount paid by Medicare for the service or supply; or

(b) For claims submitted by out-of-network hospitals, 185 percent of the amount paid by Medicare for the service or supply.

(2) A self-insurance program administered by a third party administrator that is offered by the board to eligible employees and their dependents and that reimburses the cost of inpatient or outpatient hospital services or supplies shall reimburse a claim for the cost of a hospital service or supply that is covered by, or is similar to a service or supply that is covered by, the Medicare program in an amount that does not exceed:

(a) For claims submitted by in-network hospitals, 200 percent of the amount paid by Medicare for the service or supply; or

(b) For claims submitted by out-of-network hospitals, 185 percent of the amount paid by Medicare for the service or supply.

(3) A provider who is reimbursed in accordance with subsection (1) or (2) of this section may not charge to or collect from the patient or a person who is financially responsible for the patient an amount in addition to the reimbursement paid under subsection (1) or (2) of this section other than cost sharing amounts authorized by the terms of the health benefit plan.

(4) If a carrier or third party administrator does not reimburse claims on a fee-for-service basis, the payment method used must take into account the limits specified in subsections (1) and (2) of this section. Such payment methods include, but are not limited to:

(a) Value-based payments;

(b) Capitation payments; and

(c) Bundled payments.

[(3)] (5) This section does not apply to reimbursements paid by a carrier or third party administrator to [a hospital that is not subject to the methodology prescribed by the authority under ORS 442.392.];

(a) A type A or type B hospital as described in ORS 442.470;

(b) A rural critical access hospital as defined in ORS 315.613; or

(c) A hospital:

(A) Located in a county with a population of less than 70,000 on the effective date of this 2017 Act;

(B) Classified as a sole community hospital by the Centers for Medicare and Medicaid Services; and

(C) With Medicare payments composing at least 40 percent of the hospital's total annual patient revenue.

(6) This section does not require a health benefit plan offered by the board to reimburse claims using a fee-for-service payment method.

SECTION 30. ORS 243.125 is amended to read:

243.125. (1) The Public Employees' Benefit Board shall prescribe rules for the conduct of its business and for carrying out ORS 243.256. The board shall study all matters connected with the providing of adequate benefit plan coverage for eligible employees on the best basis possible with relation both to the welfare of the employees and to the state and local governments. The board shall design benefits, devise specifications, analyze carrier responses to advertisements for bids and decide on the award of contracts. Contracts shall be signed by the chairperson on behalf of the board.

(2) In carrying out its duties under subsection (1) of this section, the goal of the board shall be to provide a high quality plan of health and other benefits for employees at a cost affordable to both the employer and the employees.

(3) Subject to ORS chapter 183, the board may make rules not inconsistent with ORS 243.105 to 243.285 and 292.051 to determine the terms and conditions of eligible employee participation and coverage.

(4)(a) The board shall prepare specifications, invite bids and do acts necessary to award contracts for health benefit plan and dental benefit plan coverage of eligible employees in accordance with the criteria set forth in ORS 243.135 (1).

(b) Premium rates established by the board for a self-insured health benefit plan and premium rates negotiated by the board with a carrier that offers a health benefit plan to eligible employees must take into account any reduction in the cost of hospital services and supplies anticipated to result from the application of ORS 243.256.

(5) The executive director of the board shall report to the Director of the Oregon Health Authority.

(6) The board may retain consultants, brokers or other advisory personnel when necessary and, subject to the State Personnel Relations Law, shall employ such personnel as are required to perform the functions of the board. **If the board contracts for actuarial or technical support to manage the functions of the board, the board shall, no less than every three years, solicit invitations to bid and the proposals must include all of the following:**

(a) An explanation of how the bidder has assisted other clients in creating incentives to improve the quality of care provided to enrollees;

(b) An explanation of how the bidder will support the board's efforts to maximize provider efficiencies and achieve more organized systems of care; and

(c) A description of the bidder's experience in assisting other clients in structuring contracts that use risk-based networks of providers and alternative provider reimbursement methodologies.

SECTION 31. ORS 243.879 is amended to read:

243.879. *[(1) A hospital that provides services or supplies under a benefit plan offered by the Oregon Educators Benefit Board shall be reimbursed using the methodology prescribed by the Oregon Health Authority under ORS 442.392 and may not be reimbursed for each service or supply provided.]*

[(2) This section applies to hospital payments made by a carrier under a contract with the board and to hospital payments made under a self-insurance program administered by a third party administrator on behalf of the board.]

(1) A carrier that contracts with the Oregon Educators Benefit Board to provide to eligible employees and their dependents a benefit plan that reimburses the cost of inpatient or outpatient hospital services or supplies shall reimburse a claim for the cost of a hospital service or supply that is covered by, or is similar to a service or supply that is covered by, the Medicare program in an amount that does not exceed:

(a) For claims submitted by in-network hospitals, 200 percent of the amount paid by Medicare for the service or supply; or

(b) For claims submitted by out-of-network hospitals, 185 percent of the amount paid by Medicare for the service or supply.

(2) A self-insurance program administered by a third party administrator that is offered by the board to eligible employees and their dependents and that reimburses the cost of in-patient or outpatient hospital services or supplies shall reimburse a claim for the cost of a hospital service or supply that is covered by, or is similar to a service or supply that is covered by, the Medicare program in an amount that does not exceed:

(a) For claims submitted by in-network hospitals, 200 percent of the amount paid by Medicare for the service or supply; or

(b) For claims submitted by out-of-network hospitals, 185 percent of the amount paid by Medicare for the service or supply.

(3) A provider who is reimbursed in accordance with subsection (1) or (2) of this section may not charge to or collect from the patient or a person who is financially responsible for the patient an amount in addition to the reimbursement paid under subsection (1) or (2) of this section other than cost sharing amounts authorized by the terms of the health benefit plan.

(4) If a carrier or third party administrator does not reimburse claims on a fee-for-service basis, the payment method used must take into account the limits specified in subsections (1) and (2) of this section. Such payment methods include, but are not limited to:

(a) Value-based payments;

(b) Capitation payments; and

(c) Bundled payments.

[(3)] (5) This section does not apply to reimbursements paid by a carrier or third party administrator to [a hospital that is not subject to the methodology prescribed by the authority under ORS 442.392.]:

(a) A type A or type B hospital as described in ORS 442.470;

(b) A rural critical access hospital as defined in ORS 315.613; or

(c) A hospital:

(A) Located in a county with a population of less than 70,000 on the effective date of this 2017 Act;

(B) Classified as a sole community hospital by the Centers for Medicare and Medicaid Services; and

(C) With Medicare payments composing at least 40 percent of the hospital's total annual patient revenue.

(6) This section does not require a health benefit plan offered by the board to reimburse claims using a fee-for-service payment method.

SECTION 32. ORS 243.864 is amended to read:

243.864. (1) The Oregon Educators Benefit Board:

(a) Shall adopt rules for the conduct of its business and for carrying out ORS 243.879; and

(b) May adopt rules not inconsistent with ORS 243.860 to 243.886 to determine the terms and conditions of eligible employee participation in and coverage under benefit plans.

(2) The board shall study all matters connected with the provision of adequate benefit plan coverage for eligible employees on the best basis possible with regard to the welfare of the employees and affordability for the districts and local governments. The board shall design benefits, prepare specifications, analyze carrier responses to advertisements for bids and award contracts. Contracts shall be signed by the chairperson on behalf of the board.

(3) In carrying out its duties under subsections (1) and (2) of this section, the goal of the board is to provide high-quality health, dental and other benefit plans for eligible employees at a cost affordable to the districts and local governments, the employees and the taxpayers of Oregon.

(4)(a) The board shall prepare specifications, invite bids and take actions necessary to award contracts for health and dental benefit plan coverage of eligible employees in accordance with the criteria set forth in ORS 243.866 (1).

(b) Premium rates established by the board for a self-insured health benefit plan and premium rates negotiated by the board with a carrier that offers a health benefit plan to eligible employees must take into account any reduction in the cost of hospital services and supplies anticipated to result from the application of ORS 243.879.

(c) The Public Contracting Code does not apply to contracts for benefit plans provided under ORS 243.860 to 243.886. The board may not exclude from competition to contract for a benefit plan an Oregon carrier solely because the carrier does not serve all counties in Oregon.

(5) The board may retain consultants, brokers or other advisory personnel when necessary and shall employ such personnel as are required to perform the functions of the board. **If the board contracts for actuarial or technical support to manage the functions of the board, the board shall, no less than every three years, solicit invitations to bid and the proposals must include all of the following:**

(a) An explanation of how the bidder has assisted other clients in creating incentives to improve the quality of care provided to enrollees;

(b) An explanation of how the bidder will support the board's efforts to maximize provider efficiencies and achieve more organized systems of care; and

(c) A description of the bidder's experience in assisting other clients in structuring contracts that use risk-based networks of providers and alternative provider reimbursement methodologies.

SECTION 33. ORS 442.394 is amended to read:

442.394. (1) A hospital or ambulatory surgical center shall bill and accept as payment in full an amount determined in accordance with **ORS 243.256 and 243.879, if applicable, or** the payment methodology prescribed by the Oregon Health Authority under ORS 442.392.

(2) This section does not apply to type A or type B hospitals as described in ORS 442.470 or rural critical access hospitals as defined in ORS 315.613.

SECTION 34. (1)(a) The amendments to ORS 243.125 by section 30 of this 2017 Act apply to health benefit plans offered by the Public Employees' Benefit Board on or after January 1, 2018.

(b) The amendments to ORS 243.135 and 243.256 by sections 27 and 29 of this 2017 Act apply to health benefit plans offered by the Public Employees' Benefit Board for plan years beginning after July 1, 2019.

(2)(a) The amendments to ORS 243.864 by section 32 of this 2017 Act apply to health benefit plans offered by the Oregon Educators Benefit Board on or after January 1, 2018.

(b) The amendments to ORS 243.866 and 243.879 by sections 28 and 31 of this 2017 Act apply to health benefit plans offered by the Oregon Educators Benefit Board for plan years beginning after July 1, 2019.

CAPTIONS

SECTION 35. The unit captions used in this 2017 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2017 Act.

EMERGENCY CLAUSE

SECTION 36. This 2017 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect on its passage.

Passed by Senate July 6, 2017

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House July 7, 2017

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Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2017

Approved:

.....M,....., 2017

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2017

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Dennis Richardson, Secretary of State