

# TITLE 28

## PUBLIC FINANCIAL ADMINISTRATION

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### Chapter 291

1989 EDITION

#### State Financial Administration

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**DEFINITIONS AND APPLICATION**

**291.002 Definitions.** As used in ORS 291.002 to 291.034, 291.202 to 291.222, 291.232 to 291.260, 291.307 and 291.990, unless the context requires otherwise:

(1) "Department" means the Executive Department.

(2) "Director" means the Director of the Executive Department.

(3) "Dedicated fund" means a fund in the State Treasury, or a separate account or fund in the General Fund in the State Treasury, that by law is dedicated, appropriated or set aside for a limited object or purpose; but "dedicated fund" does not include a revolving fund or a trust fund.

(4) "Revolving fund" means a fund in the State Treasury, established by law, from which is paid the cost of goods or services furnished to or by a state agency, and which is replenished through charges made for such goods or services or through transfers from other accounts or funds; and specifically includes funds derived from receipts by the State Board of Higher Education of tuition, fees, dormitory earnings, student activity receipts and sales of products and services incident to education functions.

(5) "Trust fund" means a fund in the State Treasury in which designated persons or classes of persons have a vested beneficial interest or equitable ownership, or which was created or established by a gift, grant, contribution, devise or bequest that limits the use of the fund to designated objects or purposes.

(6) "Classification of expenditures" means the major groups or categories of expenditures for the purpose of budget-making and accounting that are established as provided in ORS 291.206.

(7) "State agency" or "agency" means every state officer, board, commission, department, institution, branch or agency of the state government, whose costs are paid wholly or in part from funds held in the State Treasury, except the Legislative Assembly, the courts and their officers and committees, and except the Secretary of State and the State Treasurer in the performance of the duties of their constitutional offices.

(8) "State officer" means any elected or appointed state officer, including members of boards and commissions, except the members and officers of the Legislative Assembly, the courts and the Secretary of State and the State Treasurer in the performance of the duties of their constitutional offices. [Amended by 1967 c 419 §2]

**291.003 Federal laws and rules govern when federal granted funds involved.** In all cases where federal granted funds are involved, the federal laws, rules and regulations applicable thereto shall govern notwithstanding any provision to the contrary in ORS 291.002 to 291.034, 291.202 to 291.222, 291.232 to 291.260, 291.307 and 291.990. [Amended by 1967 c.419 §3]

**FISCAL DUTIES OF EXECUTIVE DEPARTMENT**

**291.004** [Repealed by 1967 c.419 §68]

**291.005** [1967 c.419 §5; 1969 c.80 §3; renumbered 184.325]

**291.006** [Repealed by 1967 c.419 §68]

**291.007** [1967 c.419 §6, 1969 c.80 §2; renumbered 184.315]

**291.008** [Repealed by 1967 c.419 §68]

**291.009** [1967 c.419 §7; 1969 c.80 §4; renumbered 184.335]

**291.010** [Amended by 1961 c.448 §18, repealed by 1967 c.419 §68]

**291.011 Blanket fidelity bonds for state officers and personnel.** (1) The director may require a fidelity bond of any officer, employee or agent of the department or of any other state officer, employee or agent who has charge of, handles or has access to any money or property belonging to the state or in which the state may have an interest and who is not otherwise required by law to give a fidelity bond. The amounts of the bonds shall be fixed by the director, except as otherwise provided by law, and the sureties shall be approved by the director. The premium on the bond of any officer, employee or agent shall be paid by the state agency that employs the officer, employee or agent.

(2) The director may cause to be procured a blanket bond covering any or all officers and employees of the state. The bond shall contain such coverages and shall be in such amounts as the director deems adequate to protect the interest of the state. Procurement of the bond to cover any officer or employee of the state shall constitute compliance with any statute requiring that officer or employee to be bonded up to the monetary limit of the blanket bond which the Department of General Services is authorized to purchase on behalf of all officers or employees of the state. The coverage and insuring amount applicable in such bond to any officer or employee of the state shall be at least equal to that required by statute. The cost of the premium on the bond shall be charged to the various state agencies employing the state officers and employees covered by the bond and paid in the same manner as other claims against the state agencies are paid.

(3) The provisions of this section are considered to satisfy any provision of law requiring individual fidelity bonds for elected officers if the level of coverage of the blanket fidelity bond is at least equal to the individual statutory requirements.

(4) As used in this section:

(a) "Officers and employees of the state" includes all elected and appointed officers and employees of the State of Oregon and all persons appointed by a state agency on a temporary or intermittent basis to act for the state in particular matters where such persons have charge of, handle or have access to any money or property belonging to the state or in which the state may have an interest.

(b) "State agency" means every state officer, board, commission, department, institution, branch or agency of the state government and includes the Legislative Assembly and any of its statutory standing, special or interim committees, the courts and their officers and committees, and all constitutional state officers. [1967 c.419 §8, 1969 c.80 §5; 1971 c.54 §1, 1975 c.194 §1, 1981 c.129 §1]

291.012 [Amended by 1955 c.58 §1, repealed by 1967 c.419 §68]

291.013 [1967 c.419 §9; renumbered 184.340]

291.014 [Repealed by 1967 c.419 §68]

**291.015 Fiscal responsibilities of department; delegation of fiscal functions.** (1) The department, under the direction of the Governor and as provided by law, is responsible generally for the administration and coordination of internal accounting and other affairs, controls, procedures and services of a fiscal nature of the state government and agencies thereof.

(2) Except as otherwise provided by law, the department may authorize subject to its control the decentralized performance by state agencies of fiscal functions of the department. [1967 c.419 §10]

**291.016 Making administrative and organizational surveys.** The department may make or cause to be made administrative and organizational surveys of the state agencies for the purpose of determining the feasibility of improving the administration of the state government by the elimination of unnecessary positions and activities, the improvement of internal operating forms, the avoidance of duplication, and increasing efficiency and economical operation.

**291.018 Conducting research; requiring administrative reports from agencies.** The department shall conduct research for use in administrative planning, policy review and organization and methods improvement. Periodic administrative reports to the depart-

ment and the Governor, designed to outline factually the quantitative and qualitative aspects of work performance by operating units, may be required of state agencies. The department may require submission of such information in reports as will permit sound analysis and will provide the basis for detecting administrative weaknesses, correcting performance difficulties and permitting better planning and management of state services.

291.020 [Renumbered 291 028]

**291.021 Requirements and procedures applicable to personal service contracts; exceptions.** (1) The Executive Department shall approve all personal service contracts of state agencies as defined in ORS 291.002 except architectural and engineering service contracts described in ORS 279.712 (2), before any such contract becomes binding and before any service may be performed under the contract.

(2) The department shall impose by rule requirements necessary to carry out the provisions of this section. Such requirements shall include but are not limited to the following:

(a) Requirements concerning the type of documentation to accompany contracts when submitted to the department for approval or filing.

(b) Requirements for a reporting system for all agencies on personal service contracts. Such reports shall be submitted by all agencies on a monthly basis in the manner and form directed by the department.

(c) Procedures for agencies to follow for the screening and selection of persons to perform personal services.

(3) The department may delegate to agencies authority to:

(a) Enter into personal service contracts which an agency is required to enter into by law or in a particular category or within a specified dollar amount.

(b) Enter into personal service contracts in an amount up to \$1,000, with an annual agency limit for each contractor of \$2,000.

(c) Allow procurements for personal services through negotiation with providers rather than through advertising, if competition is encouraged to the maximum extent practical. The rules shall also require that agency procurement records provide justification for the contractor's selection and the basis for the cost negotiated. The rules may provide that contracts of \$2,500 or more must be submitted to the department with procurement justification and that contracts less than \$2,500 may be supported by procurement justification maintained in the agency's

contract file for review by the department upon request.

(4) The department may exempt certain personal contracts or classes of contracts from the requirements of this section upon the following findings:

(a) It is unlikely that such exemption will encourage favoritism in the awarding of personal service contracts or substantially diminish competition for these contracts; and

(b) The awarding of personal service contracts pursuant to the exemption will result in substantial cost savings to the state agency. In making such finding, the department may consider the type, cost, amount of the contract, number of persons available and such other factors as the department may deem appropriate.

(5) Each state agency shall file a copy of each personal service contract with the department, whether the contract is approved by the department or authority is delegated to the state agency under subsection (3) of this section. The filing shall include a statement of agency justification for the contract. The department shall keep on file for three years all personal service contracts and the justifying statement accompanying the contracts. All such files may be destroyed after three years.

(6) The department shall maintain a system for filing copies of personal service contracts so as to enable inspection of the contracts by members of the public.

(7) The department shall submit annual reports to the Legislative Assembly concerning the use of personal service contracts by state agencies. The reports shall include the name of the agency, amount to be paid under the contract, the name of the contractor, the duration of the contract and its basic purpose. The report shall also include the total dollar figure of all personal service contracts for each year.

(8) The department shall not approve any personal service contracts calling for payment in excess of \$25,000 unless the contract is reviewed and approved as legally sufficient by the Attorney General. The approval of the Attorney General must be given prior to the effective date of the contract or the contract is not binding on the State of Oregon and no service can be performed under the contract.

(9) Whenever a state agency pays more in a year to a contractor under a personal service contract for services historically performed by state employees than would have been paid to an agency employee performing the same work, the state agency shall report that fact, with a justifying statement to the Executive Department.

(10) The department shall notify all state agencies of the requirements of this section.

(11) Personal service contracts for real estate broker services entered into by the Director of Veterans' Affairs are exempt from the requirements of paragraph (c) of subsection (2) of this section. [1973 c.84 §2; 1981 c.766 §2; 1987 c.538 §2]

291.022 [Formerly 291.558; repealed by 1967 c.454 §119]

291.024 [Formerly 291.560; repealed by 1967 c.454 §119]

**291.026 Examining agency records and financial affairs.** For the purposes of carrying out its duties, powers and functions, the department may examine the records, files, documents, accounts and financial affairs of any state agency, and shall have the right of access for that purpose. During business hours the department may examine the accounts of any state agency in any depository which has state funds in its custody. [Formerly 291.562]

**291.028 Submitting suggestions to Governor for improvement of state governmental administration.** The department, upon the basis of its research and reports received, shall submit, from time to time, for the Governor's consideration and appropriate action thereupon, suggestions for the development of interagency policies consistent with the executive policies of the Governor and for the improvement of operating methods and procedures and better personnel utilization and for the improvement of work performance and reduction of costs in state government activities. [Formerly 291.020]

**291.030 "Agency" defined for ORS 291.032 and 291.034.** As used in ORS 291.032 and 291.034, "state agency" or "agency" includes the Legislative Assembly, at its option, or any of its statutory, standing, special or interim committees, at the option of such committee, and the courts and their officers and committees and the constitutional state officers, at their option. [1965 c.365 §1]

**291.032 Providing technical services involving management and organization.** The department may provide technical services to state agencies for management improvement development and the development of economies in the organization and administration of state agencies. The technical services may include consulting studies in work simplification, work measurement, equipment utilization and other management improvement concepts. The cost of the technical services, or portions thereof, as determined by the department, shall be charged to the agency served and paid to the department in the same manner as other claims against the agency are paid. [1965 c.365 §3]

**291.034 Providing technical services involving data processing.** The department may provide technical services to state agencies for data processing systems development and the development of data processing methods and applications. The technical services may include consulting and programming services and assistance in locating electronic data processing installations. The cost of the technical services, or portions thereof, as determined by the department, shall be charged to the agency served and paid to the department in the same manner as other claims against the agency are paid. [1965 c.365 §4]

**291.036 Executive Department Revolving Fund.** (1) The account in the General Fund heretofore known as the Finance Revolving Fund shall henceforth be known as the Executive Department Revolving Fund, which fund hereby is appropriated continuously for and shall be used for the purposes authorized by law.

(2) The cost to the department of providing services (including labor), facilities and materials to any state agency, including itself, the cost of which is to be charged, in part or whole, to the agency or unit served pursuant to ORS 283.120, 291.032, 291.034 or any other provision of law may be advanced out of the Executive Department Revolving Fund. The costs advanced from the fund shall be reimbursed to the fund from the charges paid to the department by the agency or unit served.

(3) In order to facilitate financing the costs advanced as set forth in subsection (2) of this section, the department may at any time during the biennium transfer to the Executive Department Revolving Fund such amounts as it deems necessary, not to exceed \$200,000, from funds duly appropriated to the department for a biennial period. Such funds so transferred shall be retransferred from the Executive Department Revolving Fund by the department to the appropriation from which the original transfer was made. The retransfers shall be accomplished prior to the last day of each biennial period. [1967 c.419 §37; 1969 c.80 §6; 1973 c.159 §1]

**291.038 Coordinating acquisition, installation and use by state agencies of information systems technology; rules.** (1) The acquisition, installation and use of all information systems technology by the state government and its agencies shall be coordinated so that the needs which may be satisfied by use of information systems technology are satisfied in the most economic and efficient manner.

(2) To facilitate accomplishment of the purpose set forth in subsection (1) of this section, the Executive Department shall de-

vised rules for the planning and coordination of information systems technology in the executive branch and its agencies. In devising those rules, the department shall consult with state agencies having needs that may be satisfied by use of information systems technology. State agencies shall cooperate with the department in preparing those rules:

(3) Rules, plans and specifications shall be formulated to require fair and competitive procurement practices. Prior to adoption of rules referred to in subsection (2) of this section, the Executive Department shall present the proposed rules to the appropriate legislative committee.

(4) As used in this section, "information systems technology" includes all present and future forms of, but is not limited to, electronic data processing, telecommunications, office automation, word processing and microcomputer equipment. [1967 c.419 §11; 1985 c.594 §1]

**291.040 State financial report.** (1) Within 180 days of the close of each fiscal year, the Executive Department shall prepare a financial report for the State of Oregon. The report shall contain financial statements which fairly present the financial condition and results of operation of the State of Oregon in accordance with current, generally accepted accounting principles and such other financial and statistical information as may be necessary to completely and accurately disclose the financial condition and financial operations of the state and its various agencies. The financial statements shall include, but not be limited to, such information as may be found in a balance sheet, a statement of changes in fund balances, statement comparing budgeted and actual revenues and expenditures, statement of changes in financial position and a statement of operations. The financial statements shall compare the current fiscal year with the totals for the preceding fiscal year.

(2) As used in subsection (1) of this section, "generally accepted accounting principles" means those accounting principles sanctioned by recognized authoritative bodies such as the Governmental Accounting Standards Board, the National Council on Governmental Accounting, the American Institute of Certified Public Accountants, the Financial Accounting Standards Board or their successors. [1977 c.897 §1; 1989 c.152 §1]

**Note:** 291.040 and 291.042 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 291 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**291.042 Use of data processing programs, information and materials; approval by legislature.** (1) Subject to the

approval of the Joint Legislative Committee on Data Processing, the Data Systems Division of the Executive Department:

(a) May obtain copyrights and patents on copyrightable or patentable data processing programs, information or materials developed, published or produced by state agency staff.

(b) May cause to have sold, leased, or otherwise made available such data processing programs, information or materials to any agency or legislative body of any state or the Federal Government under such terms and conditions as may be agreed to by the committee and the agencies.

(2) Moneys collected under this section shall be credited to the General Fund and are available for general governmental purposes. [1979 c.740 §3]

Note: See note under 291.040.

## STATE BUDGET; BUDGET REPORT

**291.200 Legislative intent on the Governor's budget.** It is the intent of the Legislative Assembly to require the Governor, in the preparation of the biennial budget, to state as precisely as possible what programs the Governor recommends be approved for funding under estimated revenues under ORS 291.342. If estimated revenues are inadequate, the Legislative Assembly intends that it be advised by the Governor as precisely as possible how the Legislative Assembly might proceed to raise the additional funds. It is also the intent of the Legislative Assembly, in the event that the additional funding is not possible, to be informed by the Governor precisely what programs or portions thereof the Governor recommends be reduced accordingly. Finally, if the Governor chooses to recommend additional new programs or program enhancements, the Legislative Assembly intends that the Governor specify how the additional funding might be achieved. [1985 c.270 §1]

Note: 291.200 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 291 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**291.202 Budget report of Governor; department to assist Governor in preparation.** Except as otherwise provided in ORS 291.222, the Governor shall prepare in each even-numbered year a budget report for the biennium beginning July 1 of the following year. The Executive Department shall advise and assist the Governor in the preparation of the budget report and shall perform such duties in connection therewith as the Governor requires. [Amended by 1969 c.464 §2]

**291.204 Prescribing forms for submitting budget estimates and requests for appropriations; furnishing budget forms to agencies.** The department, by July 1 of each even-numbered year, shall furnish every state agency with a sufficient number of forms for its use in preparing for submission to the Governor the information required by the Governor in the preparation of the budget report of the Governor. The Governor shall prescribe the forms to be used by the agencies in submitting their budget estimates and requests for appropriations as required by ORS 291.208.

**291.206 Guidance of agencies in completing budget forms.** (1) The Governor shall prescribe such rules and regulations as the Governor deems necessary for the guidance of agencies in the preparation of the budget estimates and requests. The Governor, with the approval of the Secretary of State, shall prepare and prescribe classifications of expenditures and revenue for the purpose of budget-making and accounting.

(2) In so far as practicable, agency budget estimates and requests and appropriation measures shall be prepared in a manner that reflects state governmental organization and state agency duties, functions and powers under the law in effect on January 1 of the following year. The Executive Department shall maintain agency budget estimates and requests in the form in which they are submitted. [Amended by 1969 c 173 §1]

**291.208 Filing budget forms with department; preparing requests for agencies failing to file.** Each state agency shall file with the department, before September 1 in each even-numbered year, on the form and in the manner required, its budget forms containing the information required. The department shall prepare budget estimates and requests for appropriations for all agencies that fail to file requests.

**291.210 Preparing tentative budget plan.** The department, in connection with its direct studies of the operations, plans and needs of state agencies and of the existing and prospective sources of income, shall prepare a tentative budget plan for the two fiscal years for which a budget report is required to be prepared.

**291.212 Revising budget plan; transmitting budget forms and tentative budget report to Governor.** Upon receipt of the budget forms, the department shall check the agencies' estimates in the light of the tentative budget plan and shall make such further inquiries and investigations as the Governor requires and revise its tentative budget plan accordingly. The department then shall transmit to the Governor the

budget forms filed with it by the state agencies and the revised tentative budget report.

**291.214 Governor to examine budget forms and revise tentative budget report.**

The Governor, during the preparation of the budget report and before its submission to the Legislative Assembly, shall examine the budget forms filed by the various agencies. The Governor may make or cause to be made such further investigations by the department, with such hearings before the Governor or any state agency, as the Governor deems advisable, and may make such changes or revisions in policy and program and in specific details of the tentative budget report as the Governor finds warranted.

**291.216 Governor's budget report.** (1)

Not later than November 10 of each even-numbered year the Governor shall cause the budget report to be compiled and prepared for printing.

(2) The budget report 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 plan, embracing a general budget summary setting forth the aggregate figures of the budget report 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 estimated expenditures for the ensuing biennium, compared with the corresponding figures for at least the last completed biennium and the current biennium.

(3) The budget plan shall be supported by explanatory schedules or statements, classifying the expenditures reported therein, 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.

(4) The budget plan 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.

(5) The budget report shall embrace the detailed estimates of expenditures and revenues. It shall include 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. It shall also contain any statements relative to the financial plan which the Governor may deem desirable or which may be required by the legislature.

(6) The budget plan shall use the estimated revenues under ORS 291.342 for the fiscal year in which the plan is submitted as the basis for total anticipated income under subsection (2) of this section, subject to such adjustment as may be necessary to reflect accurately projections for the next biennium.

(7) As supplemental information to the budget report, the Governor shall publish an existing level tentative budget plan for the two fiscal years for which the budget report is required. This summary budget shall reflect only existing revenues estimated under subsection (6) of this section; subject to such adjustment as may be necessary to reflect accurately projections for the next biennium. The supplemental information to the budget report shall be submitted at the same time as the budget report. [Amended by 1985 c.270 §2]

**291.218 Printing budget report; transmitting to members of legislature; distribution.** Except when the Governor under whose supervision the budget report has been prepared will be succeeded in office in January next following:

(1) The department shall have as many copies of the approved budget report printed as the Governor directs.

(2) Not later than December 1 of each even-numbered year, the Governor shall transmit a copy thereof to each member of the legislature who is to serve during the next session.

(3) Upon request, the Governor shall distribute copies free of charge, under such regulations as the Governor may establish, to public libraries, schools and state officials. The Governor shall make copies available to the general public at a reasonable charge for each copy. [Amended by 1959 c.140 §1; 1967 c.302 §1]

**291.220 Furnishing information and assistance to legislature.**

The Governor, upon request, shall furnish the Legislative Assembly any further information required concerning the budget report. The department, upon request, shall furnish a representative to assist the Legislative Assembly, its Joint Committee on Ways and Means, appointed under ORS 171.555, and the Legislative Revenue Officer in the consideration of the budget report and any accompanying measures. [Amended by 1969 c.173 §2; 1975 c.789 §8]

**291.222 Furnishing information and assistance to Governor-elect; revision of budget report.** If the Governor under whose

supervision the budget report has been prepared will be succeeded in office in January next following:

(1) The department shall make available to the Governor-elect so much as the Governor-elect requests of the information upon which the tentative budget report is based, and upon completion of the tentative budget report shall supply the Governor-elect with a copy thereof but shall not cause the tentative budget report to be printed and distributed. The department shall also make available to the Governor-elect all facilities of the department reasonably necessary to permit the Governor-elect to review and become familiar with the tentative budget report.

(2) After a review of the tentative budget the Governor-elect may prepare revisions and additions thereto. The department shall assist, upon request, in the preparation of such revisions or additions.

(3) The department shall have as many copies of the revised budget report printed as the Governor-elect requests.

(4) Not later than the convening of the next Legislative Assembly the department shall transmit a copy of a summary of the revised budget report containing the revenue and expenditure recommendations of the Governor-elect and not later than February 1 shall transmit a copy of the revised budget report to each member of the Legislative Assembly.

(5) Upon request, the department shall distribute copies of the revised budget report free of charge, under such regulations as it may establish, to public libraries, schools and state officials. It shall make copies of the revised budget report available to the general public at a reasonable charge for each copy. [Amended by 1967 c.302 §2; 1969 c.464 §3]

**291.223 Furnishing agency budget estimates to Legislative Fiscal Officer and Legislative Revenue Officer; confidentiality of estimates.** (1) Not later than November 10 of each even-numbered year the Governor shall cause the agency budget estimates and requests as described in ORS 291.206 to be made available to the Legislative Fiscal Officer and to the Legislative Revenue Officer.

(2) Before December 1 of the year in which they were made available under subsection (1) of this section, the Legislative Fiscal Officer or staff and the Legislative Revenue Officer or staff shall not reveal to any other person the contents or nature of the budget reports and other materials, except with the written consent of the Governor. [1969 c.173 §4; 1975 c.789 §9]

**291.224 Capital construction program to be included in budget report; recommendation of Capitol Planning Commission.** (1) A capital construction program containing estimated capital construction needs, irrespective of how financed, shall be included with the budget report required by ORS 291.216. The capital construction program shall contain the estimated physical construction requirements for each biennium of a period to be determined by the Governor, which period shall not be less than six years. The department shall assist the Governor in the preparation of the capital construction program.

(2) Except as otherwise provided in subsection (3) of this section and in accordance with regulations prescribed by the department, state agencies shall submit to the department their anticipated capital construction requirements for the period specified by the Governor. The department shall prescribe the basic assumptions relating to population changes, economic trends and other factors which might generally affect capital construction requirements and these basic assumptions shall be used by the state agencies in preparing their anticipated capital construction requirements. Each state agency is responsible for the basic assumptions which affect only its own program. The department shall prepare estimated capital construction requirements for any necessary capital construction not covered by the capital construction requirements submitted by the state agencies under this section.

(3) Each state agency, including the department, required under subsection (2) of this section to submit or prepare anticipated or estimated capital construction requirements, shall submit a copy of such requirements that relate to construction or improvements within the areas described in ORS 276.028 to the Capitol Planning Commission at a time specified by the Capitol Planning Commission, but not later than August 1 of each even-numbered year. The Capitol Planning Commission shall review capital construction requirements submitted as required by this subsection and, not later than November 1 of each even-numbered year, make recommendations to the department with respect to such capital construction proposals.

(4) In accordance with regulations prescribed by the department, each state agency shall separately submit its estimated office space requirements for the period specified by the Governor; and the department shall consolidate those needs and make an estimate for all state office buildings to be included in the capital construction program.

(5) The Governor shall consolidate the estimates, review all of them and make such revisions as the Governor finds warranted.

(6) The budget report shall include the proposed expenditures for the capital construction program for the ensuing biennium and the proposed expenditures for preliminary planning of the construction projects included in the capital construction program for the biennium following the ensuing biennium. The budget report shall also include dollar estimates of the cost of the capital construction projects included in the capital construction program for the succeeding years of the period determined by the Governor under subsection (1) of this section and the recommendations submitted to the department pursuant to subsection (3) of this section.

(7) As used in this section, "capital construction program" does not include the acquisition, repair, improvement, enlargement, construction or maintenance of highways and highway bridges by the Department of Transportation, or park improvements by the State Parks and Recreation Department. [1959 c.500 §1; 1973 c.129 §5; 1989 c.904 §30]

**291.226 Budget item to replace lost and unrecovered public funds or property.** When there has been a failure to recover a loss of public funds or property pursuant to ORS 297.120, the state agency sustaining the loss shall include the amount of the loss in its budget estimate and request for the following biennium clearly marked as to purpose, and the Governor shall include such item in the budget report of the Governor for the consideration of the Legislative Assembly. [1963 c.617 §3]

## ALLOTMENTS

**291.232 Declaration of policy.** It is declared to be the policy and intent of the Legislative Assembly that the total appropriations made by it, or the total of any budget approved by it, for any state agency, shall be deemed to be the maximum amount necessary to meet the requirements of such agency for the biennium, excepting as may otherwise be provided by law, and that the Governor and the Executive Department are given the powers granted by ORS 291.202 to 291.222 and 291.232 to 291.260 in order that savings may be effected by careful supervision throughout each biennium, with due regard to changing conditions, and by promoting more economic and efficient management of state agencies.

**291.234 Department to make allotments to state officers and agencies of appropriations and funds; allotment period.** (1) The department shall make allot-

ments to state officers and agencies of appropriations and funds pursuant to the allotment system provided for in ORS 291.234 to 291.260.

(2) For the purposes of the allotment system, each fiscal year shall be divided into four quarterly allotment periods, beginning, respectively, on the first days of July, October, January and April. However, in any case where the quarterly allotment period is impracticable, the department may prescribe a different period suited to the circumstances, not exceeding six months nor extending beyond the end of the biennium.

**291.236 Allotment system applicable to all appropriations; controlling expenditures and encumbering of emergency, contingent, revolving and trust funds.** (1) The provisions of ORS 291.234 to 291.260 relating to the allotment system shall apply to all appropriations for state officers and agencies. For this purpose "appropriation" includes standing, continuing and annual appropriations, and dedicated funds. In those cases where periodical allotments are impracticable, the department may dispense therewith and prescribe such regulations as will insure proper application and encumbering of funds.

(2) Subject to ORS 291.238, emergency or contingent funds, revolving funds and trust funds shall be subject to such regulations as the department may prescribe for controlling the expenditures and encumbering of such funds.

**291.238 Expenditures without allotted, revolving and trust funds.** (1) Except as expressly authorized in this section or ORS 291.236, no person shall incur, or order or vote to incur, any obligation against the state in excess of, or make or order or vote to make any expenditure not authorized by, an allotment. Any such obligation so incurred shall not be binding against the state, but where the obligation violates this section only for having been made in excess of an allotment, the department may authorize payment thereof from unallotted funds.

(2) Excepting as to administrative expenditures from dedicated, revolving and trust funds and to revolving funds established to provide services rendered by any state agency to other state agencies or to any body politic of the State of Oregon, expenditures from dedicated funds, revolving funds and trust funds may be made by any state agency without appropriation or allotment.

(3) No person shall make or order or vote to make any expenditure from or chargeable

to a revolving fund or trust fund in excess of the amount standing to the credit of such fund or for any purpose for which such fund may not lawfully be expended.

291.240 [Repealed by 1953 c.168 §4]

**291.242 Allotment required before expenditure of appropriation; submitting estimates.** No appropriation to which the allotment system is applicable shall become available to any state agency for expenditure thereby during any allotment period until:

- (1) The agency submits to the department an estimate, in such form as the department prescribes, for such allotment period, of the amount required for each activity to be carried on during that period; and
- (2) The estimate is approved, increased or decreased by the department and funds allotted therefor.

**291.244 Department action on estimates.** The department shall act promptly upon all estimates required by ORS 291.242. If the estimate is within the terms of the appropriation as to amount and purposes, having due regard for the probable further needs of the agency for the remainder of the term for which the appropriation was made, and if the department determines that there is a need for the estimated amount for the allotment period, the department shall approve the estimate and allot the estimated amount for expenditures. Otherwise the department shall modify the estimate so as to conform with the terms of the appropriation and the prospective needs of the agency, and shall reduce the amount allotted accordingly.

**291.246 Allotments to be made for purpose or classification of expenditure prescribed in appropriation measure.** Allotments shall be made according to purpose and classification of expenditures prescribed in the appropriation measure as enacted by the Legislative Assembly; provided, however, that the department may make allotments for agencies by purposes or by other classification of expenditures of amounts appropriated or authorized to be expended in appropriation measures enacted by the Legislative Assembly, whether or not such measures establish classification of expenditures. In making allotments, the department shall not authorize the expenditure of moneys for any purpose not authorized by the Act appropriating the money or authorizing it to be expended, and the funds allotted for each purpose or classification of expenditure shall be used for no other purpose or classification of expenditure. [Amended by 1963 c.182 §7]

**291.248 Notice of allotment.** Upon the granting of any allotment, the department

shall transmit a notice of the allotment to the agency concerned.

**291.250 Claims and encumbrances limited by amount and purpose of allotment.** The agency shall not create any claim or encumbrance for the future disbursement of appropriated moneys unless the proposed expenditure as estimated, together with expenses theretofore paid from or encumbered against such allotment, is within the total amount and for the purposes specified in the notice of allotment transmitted to such agency.

**291.252 Modifying allotment previously made.** The department may at any time modify or amend any allotment previously made by it, upon application of, or upon notice to, the agency concerned, but no such modification or amendment shall reduce an allotment below the amount required to meet valid obligations or commitments previously incurred against the allotted funds.

**291.254 Reducing allotment to prevent deficit.** If the department determines at any time that the probable receipts from taxes or any other sources for any appropriation will be less than was anticipated, and that consequently the amount available for the remainder of the term of the appropriation or for any allotment period will be less than the amount estimated or allotted therefor, the department shall, with the approval of the Governor, and after notice to the agency or agencies concerned, reduce the amount allotted or to be allotted so as to prevent a deficit.

291.256 [Repealed by 1959 c 608 §1]

**291.258 Approval of department required for establishment of new personnel position or classification.** A new personnel position or classification, not provided in the budget of an agency upon which appropriations have been based, shall not be established without prior approval of the department.

**291.260 Approving, modifying or disapproving requests and budgets to be submitted to the Federal Government.** Every state agency, when making requests or preparing budgets to be submitted to the Federal Government for funds, equipment, materials or services, other than for highway purposes, and purposes for which the state was legally committed on August 2, 1951, shall, upon completion of such request or budget, first submit it to the department. The department shall have authority to approve, disapprove, modify or amend any such request or budget before it is submitted to the proper federal authority.

291.262 [1963 c.182 §6; 1965 c.111 §1; repealed by 1969 c.488 §3]

### ALLOCATION OF GOVERNMENTAL SERVICE EXPENSES

**291.272 Definitions for ORS 291.272 to 291.280.** As used in ORS 291.272 to 291.280, unless the context requires otherwise:

(1) "Administrative expenses" has the meaning defined by ORS 291.305.

(2) "Department" means the Executive Department.

(3) "Governmental service expenses" means the expenses of state government that are attributable to the operation, maintenance, administration and support of state government generally, and includes the following:

(a) Expenditures of the State Treasurer supported out of the General Fund incurred in the administration of the duties of office of the State Treasurer.

(b) Expenditures of the Department of Justice incurred in the administration of its duties, other than those of the Support Enforcement Division.

(c) Administrative expenses of the Executive Department supported out of the General Fund.

(d) Sixty percent of the expenditures of the Legislative Assembly out of moneys appropriated from the General Fund, and all of the expenditures incurred in the administration of the duties of the Emergency Board.

(e) Sixty percent of the expenditures incurred in the administration of the duties of the Joint Committee on Ways and Means and the Emergency Board.

(f) Sixty percent of the expenditures incurred out of moneys appropriated from the General Fund in the administration of the duties of the Legislative Counsel Committee.

(g) Expenditures of the Secretary of State in the administration of the office of the State Archivist.

(h) Seventy-five percent of the administrative expenses of the Office of the Governor incurred out of moneys appropriated from the General Fund.

(4) "State agency" means every state officer, board, commission, department, institution, branch or agency of the state government, whose costs are paid wholly or in part from funds held in the State Treasury, and includes the Legislative Assembly, the courts and their officers and committees. [1967 c 637 §2, 1973 c.439 §9, 1983 c.385 §1; 1985 c.565 §45]

**291.274 Determination of funds and appropriations to be assessed.** The department shall determine and may at any time redetermine which state funds or appropriations shall be assessed a reasonable share

of governmental service expenses. In determining or redetermining the funds that shall be so assessed:

(1) A fund consisting of moneys the use of which is restricted by the Oregon Constitution shall be assessed only those governmental service expenses ascertained as being necessarily incurred in connection with the purposes set forth in the Oregon Constitution.

(2) Trust funds shall be assessed only those governmental service expenses ascertained as being necessarily incurred in connection with the purposes for which the trust fund was established. [1967 c 637 §3]

**291.276 Department to allocate governmental service expenses among state agencies.** (1) With respect to each biennium beginning on July 1 of an odd-numbered year, commencing July 1, 1971, the department shall allocate among all state agencies the governmental service expenses, as determined by the department in accordance with ORS 291.272, for the biennium ending two years prior to the beginning of the biennium for which the allocation is made.

(2) The department, in accordance with the procedures and methods prescribed under subsection (3) of this section, shall determine and may at any time redetermine the reasonable share of governmental service expenses to be assessed against any fund or appropriation. Such expenses shall be a charge against any fund so designated and be considered an administrative expense of the agency administering the fund or appropriation.

(3) The department, with the approval of the Governor, shall prepare and prescribe the procedures and methods used in determining and redetermining the reasonable share of governmental service expenses assessed against any fund or appropriation.

(4) The department, with the approval of the Governor, may make rules necessary or proper to carry out the duties imposed upon it by ORS 291.272 to 291.280.

(5) The computation required by subsection (1) of this section shall be made by the department in advance of the biennium with respect to which the allocation is to be made. [1967 c.637 §4; 1969 c 105 §1]

**291.278 Transfer of allocated amounts to General Fund.** (1) Upon completion of the determination by the department under ORS 291.274 and 291.276, the department shall transfer to the General Fund, with appropriate notice to the State Treasurer, out of moneys appropriated to each state agency, the amount of governmental service expenses so certified for the agency.

(2) In the case of a state agency that collects or receives moneys for fees, fines, licenses or taxes not by law made a part of the General Fund available for general governmental purposes, if moneys available to such state agency are not sufficient to permit the transfer under subsection (1) of this section, the department shall notify the state agency of the amount certified with respect to the state agency under ORS 291.274 and 291.276, less any amount transferred out of moneys appropriated to such state agency under subsection (1) of this section. Thereafter, until such balance has been paid into the General Fund, 10 percent of all moneys collected or received by the state agency for fees, fines, licenses or taxes not by law made a part of the General Fund available for general governmental purposes shall be:

(a) Transferred by the department to and made a part of the General Fund available for general governmental purposes if such moneys are paid to the State Treasurer by the state agency; or

(b) Paid to the State Treasurer by the state agency receiving such moneys at the time when they are received by the state agency if such moneys are authorized by law to be kept and disbursed other than by and through the State Treasurer, and be credited by the State Treasurer to and made a part of the General Fund available for general governmental purposes.

(3) The transfer and payment to the General Fund required by this section shall be made notwithstanding any law that appropriates such moneys or any of them to any other purposes, and such portion so paid and transferred is not subject to any special uses thereby provided. [1967 c.637 §5]

**291.280 Receipts by State Treasurer for transferred moneys.** In receipting for moneys paid and transferred under ORS 291.278 (2), the State Treasurer shall make the receipt in duplicate, showing the amount credited to the General Fund available for general governmental purposes as well as the amount credited to any special fund or account. The State Treasurer shall file one of the duplicate receipts with the department. [1967 c.637 §6]

**291.285 Payment of accounting charges from Economic Development Fund.** Moneys in the Executive Department Economic Development Fund are continuously appropriated for the payment of accounting charges of the Executive Department in order to maintain accountability of the fund. [1985 c.828 §16]

**Note:** 291.285 and 291.290 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 291 or any series therein

by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**291.290 Cash account of state agency for receipts from Economic Development Fund.** If a state agency is authorized to receive moneys from the Executive Department Economic Development Fund based on approved legislative limitations, such moneys shall be deposited in a general fund cash account in the State Treasury unless funds are directed to be deposited elsewhere. If the receiving agency is not authorized by statute to have such a cash account, the Executive Department in cooperation with the State Treasurer may create a cash account in the General Fund for the receipt of these moneys. [1985 c.828 §17]

**Note:** See note under 291.285.

**291.302** [Repealed by 1953 c.386 §9]

**291.304** [Repealed by 1953 c.386 §9]

## ACTS APPROPRIATING MONEY OR LIMITING EXPENDITURES

**291.305 Meaning of "administrative expenses" in law appropriating money or limiting expenditures; limitation not appropriation of money otherwise unavailable to agency.** (1) As used in the laws enacted by the Legislative Assembly appropriating money or limiting expenditures, the term "administrative expenses" means, unless the context requires otherwise, those expenditures that are included under the classifications of expenditures, except debt service and special payments expenditure categories, which are prepared and prescribed, pursuant to ORS 291.206, for the purpose of budget-making and accounting during the biennium for which such laws appropriating money or limiting expenditures are enacted.

(2) In the laws enacted by the Legislative Assembly, the establishment of maximum limits for expenditures from, or for the payment of administrative expenses from, fees, moneys or other revenues collected or received by any agency is not intended as an appropriation of moneys not otherwise available to such agency. [1963 c.182 §§1, 3]

**291.306** [Repealed by 1953 c.386 §9]

**291.307 Appropriation from General Fund to constitute a credit only.** An appropriation of any sum of money from the General Fund by any law shall not be considered as segregating or setting aside the amount of such appropriation from the moneys constituting the General Fund, but shall be considered and construed as constituting a credit in favor of the appropriation for the amount stated in the law making the appropriation, subject to allotment as provided in ORS 291.232 to 291.260. [Formerly 291.376]

291.308 [Repealed by 1953 c.386 §9]

291.310 [Repealed by 1953 c.386 §9]

### EMERGENCY EXPENDITURES; EMERGENCY BOARD

**291.322 Definitions for ORS 291.322 to 291.334.** As used in ORS 291.322 to 291.334:

(1) "Emergency" means any catastrophe, disaster or unforeseen or unanticipated condition or circumstance, or abnormal change of conditions or circumstances, affecting the functions of a state agency and the expenditure requirements for the performance of these functions.

(2) "State agency" means any elected or appointed officer, board, commission, department, institution, branch or other agency of the state government. [1953 c.386 §1]

**291.324 Emergency Board created.** There hereby is created a joint committee composed of members of both houses of the Legislative Assembly, to be known as the Emergency Board. [1953 c.386 §2]

**291.326 Powers of board concerning expenditures by state agencies.** (1) The Emergency Board, during the interim between sessions of the Legislative Assembly, may exercise the following powers:

(a) Where an emergency exists, to allocate to any state agency, out of any emergency fund that may be appropriated to the Emergency Board for that purpose, additional funds beyond the amount appropriated to the agency by the Legislative Assembly, or funds to carry on an activity required by law for which an appropriation was not made.

(b) Where an emergency exists, to authorize any state agency to expend, from funds dedicated or continuously appropriated for the uses and purposes of the agency, sums in excess of the amount of the budget of the agency as approved in accordance with law.

(c) In the case of a new activity coming into existence at such a time as to preclude the possibility of submitting a budget to the Legislative Assembly for approval, to approve, or revise and approve, a budget of the money appropriated for such new activity.

(d) Where an emergency exists, to revise or amend the budgets of state agencies to the extent of authorizing transfers between expenditure classifications within the budget of an agency.

(2) No allocation, authorization or approval under paragraph (a), (b) or (c) of subsection (1) of this section shall be effective unless made at a meeting at which 10 members of the board were present.

(3) The laws enacted by the Legislative Assembly making appropriations and limiting expenditures, or either, are not intended to limit the powers of the Emergency Board. [1953 c.386 §3; subsection (3) enacted as 1963 c.182 §2; 1973 c.201 §2]

**291.328 Board may require presentation of evidence to support requests for action; board to report its action to agencies concerned.** Before the Emergency Board makes any allocation, grants any authorization or approves any budget under ORS 291.326, it may require the state agency in question to submit written evidence to justify the allocation, authorization or approval and may require the head of the agency to appear before it in support thereof. The Emergency Board may also require the Director of the Executive Department to submit a written report as to the need and justification for the allocation, authorization or approval. Upon making an allocation, granting an authorization or approving a budget, the Emergency Board shall file with the department, the Secretary of State and the state agency in question a copy of the order of allocation, grant of authorization or approved budget. [1953 c.386 §4]

**291.330 Members of board; confirmation.** The Emergency Board shall be composed of the President of the Senate, the Speaker of the House of Representatives, the chairmen of the Senate and House Ways and Means Committees, six members of the Senate, at least three of whom shall have had some previous experience on the Ways and Means Committee, to be appointed by the President of the Senate and confirmed by a majority of all the members elected to the Senate, and seven members of the House, at least four of whom shall have had some previous experience on the Ways and Means Committee, to be appointed by the Speaker and confirmed by a majority of all the members elected to the House. [1953 c.386 §5; 1973 c.201 §1; 1979 c.324 §1]

**291.332 Meetings of board; terms of members; filling vacancies on board.** (1) The Emergency Board shall meet immediately upon adjournment of each Legislative Assembly and elect a chairman from their number. The board shall meet thereafter at such times as it may determine.

(2) The term of members of the board shall run from the adjournment of one regular session to the organization of the next regular session.

(3) If a vacancy occurs in the board, either the Speaker, if the legislator previously filling the position was a member of the House, or the President, if the legislator previously filling the position was a member of the Senate, shall fill such vacancy by an

appointment for the unexpired term. However, such appointment, before becoming effective, shall be confirmed by the remaining members of the board, sitting as such board. [1953 c.386 §6]

**291.334 Board authorized to secure assistance; payment of board expenses.**

(1) The Director of the Executive Department, upon request of the board, shall furnish necessary assistance to the board, or the board may employ such assistance as they may deem necessary.

(2) The expenses of the board, the cost of employed assistance, and other necessary expenses of the board shall be paid out of funds appropriated to the board specially for such purpose or, if no such appropriation is made, out of any emergency fund that may be appropriated to the board. All claims for those expenses and cost shall be approved by the chairman or other person authorized to approve claims, and warrants shall be drawn on the State Treasurer for the payment thereof in the same manner as other expenses are paid. [1953 c.386 §7; 1967 c.454 §96, 1975 c.530 §7]

**291.336 Appropriation bills requiring approval of board before project commenced or contract let; how requirement met.**

(1) As used in this section, "appropriation bill" means a legislative Act which appropriates money or authorizes the expenditure of dedicated or continuously appropriated moneys or otherwise makes moneys available for expenditure.

(2) In all cases where an appropriation bill heretofore or hereafter passed provides that a state agency shall not commence any project or allow any contract to be let for any project without having the approval of the Emergency Board, such requirement may be met:

(a) During any period when the Legislative Assembly is in session, by the adoption of a resolution by each house approving the proposed action; or

(b) During any period when the Legislative Assembly is not in session, either by approval of the Emergency Board as provided in the appropriation bill, or by the elapse of 45 days without adverse action of the Emergency Board after notice of the proposed action has been given to each member of the Emergency Board at the last-known address of the member. [1957 c.382 §1]

## ESTIMATES OF STATE REVENUES

**291.342 Annual estimation of state revenues; apportionment among counties of any state property tax levy necessary to make up deficiency; quarterly esti-**

**mates.** (1) By August 15 of each year, but not earlier than 90 days from the end of the regular session, if any, of the Legislative Assembly held in that calendar year, the Executive Department, with the assistance of the Department of Revenue, shall:

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

(b) Apportion the state tax levy on property, if any, among the several counties in the manner provided in ORS 291.344.

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

(3) In carrying out its duties under subsection (2) of this section, the Executive Department shall issue quarterly a statement setting forth the methodology and assumptions used in making the revenue estimate. Nothing in this subsection requires the statement to set forth procedures used or methods used to determine either the methodology or the assumptions. [Formerly 309.510; 1971 s.s. c.5 §3; 1975 c.789 §10; 1980 s.s. c.11 §1]

**291.344 Procedure for computation, levy, offset and apportionment of state property tax levy.** (1) The department shall proceed as prescribed in this section.

(2) The department shall prepare a statement, summarizing:

(a) All the items of expense or deficiency, including interest on unpaid warrants left over from the previous year, to which the state will be subject under existing laws for the fiscal year next after that year or period for which the last preceding levy of state revenues was computed and declared; and

(b) When the levy is made on the assessment of an even year, the estimated expense of one biennial session of the Legislative Assembly.

(3) There shall be segregated from the total of the items tabulated in accordance with subsection (2) of this section the amount necessary for the payment of bonded indebtedness and interest thereon, and this amount shall constitute the state tax levy on property.

(4) From the total of the items summarized in accordance with subsection (2) of this section, after the amounts segregated pursuant to subsection (3) of this section have been deducted, there shall be deducted, in the order listed in subsection (5) of this section, all miscellaneous receipts, including any surplus remaining in the State Treasury from all funds, however derived, excepting only the following:

(a) Funds whose use is restricted to particular purposes by the Constitution of Oregon.

(b) Funds whose use is restricted to particular purposes by federal law.

(c) All trust funds, as defined in ORS 291.002.

(5)(a) The department shall deduct first those miscellaneous receipts not excluded by paragraphs (a), (b) and (c) of subsection (4) of this section and not includable in the definitions of dedicated or revolving funds in ORS 291.002.

(b) If necessary, in order to provide revenue for all of the items summarized in subsection (2) of this section, the department shall then deduct as much as is necessary or available from any fund remaining in the State Treasury and not excluded by subsection (4) of this section. The department shall list these deductions in its records.

(6) The state tax levy on property segregated and levied pursuant to subsection (3) of this section shall be offset first by the application of miscellaneous receipts to the extent that they are not applied in accordance with subsection (4) of this section. Subject to the limitations of ORS 311.660, the amount of the state tax levy on property not offset by the foregoing application shall be apportioned among and charged to the several counties in that proportion which the total assessed value of all the taxable property in each county bears to the total assessed value of all the taxable property of the state as equalized.

(7) Immediately after the department has completed the computation, levy, offset and apportionment of the state tax levy on property in accordance with this section, a certificate thereof, signed by the director of the department, shall be filed in the office of the department. [Formerly 309.520, 1967 c.454 §97; 1981 c.804 §83]

**291.348 Biennial estimate of General Fund and State Lottery Fund revenues; certification to Secretary of State.** (1) The department, with the assistance of the Secretary of State, as soon as possible after June 30, 1966, and each even-numbered year thereafter, shall ascertain the total of General Fund revenues obtained from all sources

during the preceding fiscal year, so far as is practicable.

(2) The Director of the Executive Department shall certify to the total of General Fund and State Lottery Fund revenues during the preceding fiscal year as determined under subsection (1) of this section.

(3) As used in this section:

(a) "General Fund revenues" means all payments of money credited to the State Treasury that are placed or to be placed by the State Treasurer to the credit of the General Fund of the State of Oregon for general governmental purposes.

(b) "State Lottery Fund revenues" means the net proceeds of the state lottery authorized by section 4, Article XV of the Oregon Constitution. [1965 c.615 §12; 1967 c.454 §98; 1985 c.828 §18].

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

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

(3) If the revenues received from the corporate income and excise taxes during the biennium exceed the amounts estimated to be received from such taxes for the biennium, as estimated after adjournment sine die of the regular session, by two per-

cent or more, the total amount of that excess shall be credited to corporate income and excise taxpayers in a percentage amount of corporate excise and income tax liability as determined under subsection (5) of this section. However, no credit shall be allowed against tax liability imposed by ORS 317.090.

(4) If the revenues received from General Fund revenue sources, exclusive of those described in subsection (3) of this section, during the biennium exceed the amounts estimated to be received from such sources for the biennium, as estimated after adjournment sine die of the regular session, by two percent or more, the total amount of that excess shall be credited in a percentage amount of income tax liability as determined under subsection (5) of this section.

(5) If there is an excess to be credited under either subsection (3) or (4) of this section, or both, on or before October 1, following the end of each biennium, the Executive Department shall determine and certify to the Department of Revenue the percentage amount of credit for purposes of subsection (3) or (4) of this section. The percentage amount determined shall be a percentage amount to the nearest one-tenth of a percent that will distribute the excess to be credited to either the corporate excise and income taxpayers or personal income taxpayers for taxable years beginning in the calendar year during which such excess is determined. The credit shall be computed after the allowance of any credit allowed or allowable under ORS chapter 316, 317 or 318, whichever may be applicable, and before the application of estimated tax payments, withholding or other advance tax payments. [1979 c.241 §30; 1981 c.885 §1, 1985 c.828 §19]

**Note:** 291.349 and 291.355 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 291 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

291.350 [1965 c.615 §13; repealed by 1971 c.544 §7]

291.352 [Renumbered 293 105]

291.354 [Amended by 1959 c.273 §7, 1961 c.280 §3; 1961 c.308 §2; renumbered 293.110]

#### RATE OF GROWTH OF APPROPRIATIONS

**291.355 Rate of growth of appropriations for general governmental purposes.** (1) Each biennium, growth of state governmental appropriations for general governmental purposes shall be no greater than the rate of growth of personal income in Oregon in the two preceding calendar years. The rate of growth shall be computed based on the U.S. Department of Commerce reports for the two preceding calendar years.

(2) For the 1979-1981 biennium, the base to which the rate of growth applies shall equal state governmental appropriations for general governmental purposes in the 1977-1979 biennium plus expenditures from non-General Fund sources that are to be funded in 1979-1981 out of the General Fund and less any General Fund expenditures in 1977-1979 that are to be funded in 1979-1981 from non-General Fund sources.

(3) In bienniums subsequent to the 1979-1981 biennium, the base shall be adjusted as necessary to reflect transfer of funding sources between General Fund sources and non-General Fund sources in order to maintain a base used for general governmental purposes.

(4) Debt service and tax relief other than that provided under ORS 310.630 to 310.690 shall not be considered appropriations for general governmental purposes. [1979 c.241 §29]

**Note:** See note under 291.349.

291.356 [Amended by 1963 c.333 §2; renumbered 293 115]

291.358 [Renumbered 293 120]

291.360 [Renumbered 293 125]

291.362 [Renumbered 293.130]

291.364 [Renumbered 293 135]

291.366 [Renumbered 293.140]

291.368 [Renumbered 293 145]

291.370 [Renumbered 293 150]

#### FISCAL MATTERS; LEGISLATIVE REVIEW

**291.371 Salary plan approval by legislative review agency; approval by Executive Department for position reallocation; Human Resources and Corrections Departments to submit special reports.** (1) As used in this section, "legislative review agency" means the Joint Committee on Ways and Means during the period when the Legislative Assembly is in session and the Emergency Board during the interim period between sessions.

(2) Prior to making any changes in a salary plan, the Executive Department shall submit the proposed changes to the legislative review agency.

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

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

(B) Will not produce future budgetary increases; and

(C) Conforms to legislatively approved salary policies.

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

(4) Agencies within the Department of Human Resources and the Department of Corrections shall report on a quarterly basis to the legislative review agency. Each report shall include the number of vacant budgeted positions, including all job categories and classifications, within the agency. The legislative review agency shall order the reporting agency to show cause why the budgeted positions have not been filled and shall assess fully the impact the vacancies have on:

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

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

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

(d) Employee workload and morale; and

(e) The health, safety and well-being of the public. [1973 c.49 §1; 1985 c.713 §1; 1989 c.960 §1] 291.372 [Renumbered 293.155]

291.374 [Amended by 1955 c.133 §1; 1955 c.672 §1; 1957 c.460 §1; 1959 c.686 §39; 1961 c.268 §13, 1961 c.485 §27; renumbered 293.160]

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

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

(b) If the application is to be submitted to the Federal Government when the Legislative Assembly is not in session, the application shall be submitted to the Emergency Board for review.

(2) If the legislative agency authorized under subsection (1) of this section to review applications described therein approves the application, it may be submitted to the appropriate federal agency. If the legislative agency disapproves of the application, it shall not be submitted to any federal agency unless it is or can be modified to meet the objections of the legislative agency.

(3) Notwithstanding subsection (1) of this section, the Joint Committee on Ways and Means and the Emergency Board may exempt any state agency from the requirements of this section. Project grants for departmental research, organized activities related to instruction, sponsored research or other sponsored programs carried on within the Department of Higher Education, for which no biennial expenditure limitations have been established, are exempt from the requirements of this section.

(4) The review required by this section is in addition to and not in lieu of the requirements of ORS 293.550. [1973 c.44 §1]

291.376 [Renumbered 291.307]

291.378 [Amended by 1961 c.590 §1, renumbered 293.165]

291.380 [Amended by 1961 c.590 §2; renumbered 293.170]

**291.385 Use of certain federal moneys for employment; legislative approval.** Expenditures of moneys available to this state or any agency thereof under the Emergency Job and Unemployment Assistance Act of 1974 (Public Law 93-567), and the Emergency Jobs Program Extension Act of 1976 (Public Law 94-444), as amended, are not limited by fixed sum appropriations or expenditure limitations imposed for the biennium beginning July 1, 1977, if authorized by the Joint Committee on Ways and Means after March 1, 1979. However, positions added under the provisions of the federal enabling legislation are subject to approval of the Emergency Board during the interim between sessions of the Legislative Assembly and by the Joint Committee on Ways and Means during a session of the Legislative Assembly. [1977 c.85 §1, 1979 c.93 §1, 1985 c.565 §46]

Note: 291.385 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 291 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

291.402 [Renumbered 293.205]

291.404 [Renumbered 293.210]

## MASS TRANSIT ASSESSMENT

**291.405 Assessment of state agencies for mass transit purposes; rates.** (1) This section and ORS 291.407 allow the Executive Department to assess state agencies and to provide moneys from the assessments to mass transit districts, established under ORS 267.010 to 267.390, and transportation districts, established under ORS 267.510 to 267.650, as reimbursement for the benefit that state government receives from the districts.

(2) State agencies subject to assessment under this section include every state officer, board, commission, department, institution,

branch or agency of the state whose costs are paid wholly or in part from funds held in the State Treasury, and include the Legislative Assembly, the state courts and their officers and committees.

(3) If the Executive Department elects to pay moneys to districts under this section and ORS 291.407, the department shall do the following:

(a) Determine what services performed for subject state agencies will be subject to assessment under this section;

(b) Determine which subject agencies have employees within each district who are performing the subject services;

(c) Determine the amount of wages paid to the agency employees for performing the subject services within each district; and

(d) Establish a rate of assessment of not more than six-tenths of one percent of the total amount of the wages determined under this subsection.

(4) Notwithstanding any other provision of this section, the Executive Department shall not establish rates or impose assessments under this section that exceed the following:

(a) The Executive Department shall not assess more from an agency than the Legislative Assembly provides the agency for purposes of this section, either directly or indirectly through its approval of budgets or through the Emergency Board, if the agency budget is approved by the Legislative Assembly from General Fund moneys.

(b) If an agency is an agency other than one described in paragraph (a) of this subsection, the Executive Department shall not assess moneys from the agency at a greater rate than the rate applicable to an agency described in paragraph (a) of this subsection.

(5) At any time it determines appropriate, the Executive Department may:

(a) Redetermine any factors necessary to perform its duties under this section; or

(b) Vary the rate under this section within the limits established under this section.

(6) After making determinations and establishing a rate under this section, the Executive Department may direct the assessment against the payrolls of subject agencies at the rate established by the department. All moneys assessed under this section shall be promptly forwarded to the Executive Department. Assessments under this section are administrative expenses of an agency, as defined in ORS 291.305.

(7) The Executive Department shall pay any moneys it receives under this section to

the State Treasurer for deposit in the account established under ORS 291.407 for use as provided in that section. [1981 c.788 §1]

**Note:** 291.405 and 291.407 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 291 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

291.406 [Renumbered 293.215]

**291.407 Mass Transit Assistance Account; source; distribution; assistance of Public Transit Division; exemption from parking code requirements.** (1) The Mass Transit Assistance Account is established in the General Fund of the State Treasury. The account shall consist of moneys deposited in the account under ORS 291.405 and as otherwise provided by law. The moneys in the account are continuously appropriated to the Executive Department to be used as provided in this section.

(2) The Executive Department shall distribute moneys from the account established under this section to districts described in ORS 291.405 on the last day of each calendar quarter. Subject to the limitations in this section, the amount distributed to each district shall be equal to the total assessments received by the department during the immediate preceding three months under ORS 291.405 from agencies with employees performing subject services within that district.

(3) Distributions under this section are subject to the following limitations:

(a) Except for newly formed districts, the Executive Department shall not distribute to a district during a calendar year an amount that exceeds the amount received by the district under the district's own taxes during the immediate preceding fiscal year of the district.

(b) The Executive Department shall not distribute to a newly formed district during a calendar year an amount that exceeds the amount the budget approved by the district board proposes as revenue for the district from the district's own taxes during the current fiscal year of the district. If the district does not collect the proposed amount, the department shall make adjustments in the distributions during subsequent years to recover any amount paid under this section that is over the amount the district actually received under the district's own taxes.

(4) The limitations imposed under this section that are based on amounts received by a district under its own taxes do not include amounts received by the district from farebox revenues, federal moneys, state moneys, gifts, investments, bonds or similar moneys received by the district.

(5) The Public Transit Division of the Department of Transportation shall provide the Executive Department with any information concerning a mass transit district or transportation district that the Executive Department determines necessary for the performance of its duties under this section and ORS 291.405. The Public Transit Division shall provide the information in the form and at times determined by the Executive Department.

(6) In exchange for payments authorized under this section to transit districts, the State of Oregon and its agencies shall be exempt from any parking code requirements for existing state-owned buildings, construction of new state buildings or the renovation of existing state buildings, which have been or may be established by any political subdivision within the boundaries of a transit district receiving such payments. [1981 c.788 §2]

Note: See note under 291.405.

- 291.408 [Amended by 1959 c.258 §1; renumbered 293.220]
- 291.410 [Renumbered 293.225]
- 291.432 [Renumbered 293.255]
- 291.434 [Renumbered 293.260]
- 291.436 [Renumbered 293.265]
- 291.438 [Renumbered 293.270]
- 291.440 [Renumbered 293.275]
- 291.442 [Renumbered 293.280]
- 291.443 [1959 c.668 §2, renumbered 293.285]
- 291.444 [Renumbered 293.290]
- 291.462 [Amended by 1957 c.138 §1; 1963 c.57 §1; renumbered 293.305]
- 291.464 [Renumbered 293.310]
- 291.466 [Renumbered 293.315]
- 291.468 [Renumbered 293.320]
- 291.470 [Renumbered 293.325]
- 291.472 [Renumbered 293.330]
- 291.473 [1961 c.167 §16; renumbered 293.335]
- 291.474 [Renumbered 293.340]
- 291.476 [Renumbered 293.345]
- 291.478 [Renumbered 293.350]
- 291.480 [1955 c.261 §2; renumbered 293.355 and then 293.375]
- 291.492 [Renumbered 293.405]
- 291.494 [Renumbered 293.410]
- 291.496 [Renumbered 293.415]
- 291.498 [Renumbered 293.420]
- 291.500 [Renumbered 293.425]
- 291.502 [Renumbered 293.430]
- 291.504 [Renumbered 293.435]
- 291.506 [Renumbered 293.440]
- 291.508 [Amended by 1957 c.332 §1; renumbered 293.445]
- 291.510 [Renumbered 293.450]
- 291.512 [Renumbered 293.455]
- 291.514 [Renumbered 293.460]
- 291.516 [Amended by 1959 c.410 §8, 1959 c.543 §1; renumbered 293.465]
- 291.518 [Amended by 1959 c.543 §5; 1961 c.77 §1; renumbered 293.470]
- 291.520 [Amended by 1959 c.543 §2, 1961 c.77 §2; renumbered 293.475]
- 291.522 [Amended by 1959 c.543 §3; renumbered 293.480]
- 291.524 [Renumbered 293.485]
- 291.526 [Amended by 1955 c.316 §1; renumbered 293.490]
- 291.528 [Amended by 1955 c.316 §2, 1959 c.543 §4; renumbered 293.495]
- 291.530 [Amended by 1955 c.316 §3, renumbered 293.500]
- 291.532 [Renumbered 293.555]
- 291.534 [Renumbered 293.560]
- 291.536 [Renumbered 293.565]
- 291.538 [Renumbered 293.570]
- 291.540 [Formerly 606.220, renumbered 293.575]
- 291.548 [1957 c.139 §§1, 2; 1959 c.682 §1; renumbered 293.180]
- 291.552 [Renumbered 293.605]
- 291.554 [Renumbered 293.610]
- 291.556 [Renumbered 293.615]
- 291.558 [Renumbered 291.022]
- 291.560 [Renumbered 291.024]
- 291.562 [Renumbered 291.026]
- 291.564 [Renumbered 293.620]
- 291.566 [Renumbered 293.625]
- 291.568 [Renumbered 293.630]
- 291.570 [Renumbered 293.635]
- 291.572 [Renumbered 293.640]
- 291.574 [Renumbered 293.645]
- 291.575 [1959 c.259 §1, renumbered 293.650]
- 291.576 [Amended by 1959 c.34 §1; renumbered 293.655]
- 291.578 [Amended by 1955 c.251 §1, renumbered 293.660]
- 291.602 [Repealed by 1959 c.157 §10]
- 291.604 [Amended by 1957 c.371 §1; renumbered 293.705]
- 291.606 [Amended by 1953 c.706 §2; 1957 c.371 §2, 1961 c.393 §1, 1963 c.520 §1, renumbered 293.710]
- 291.607 [1959 c.660 §14, 1961 c.508 §10, renumbered 293.715]
- 291.608 [Renumbered 293.720]
- 291.610 [Renumbered 293.735]
- 291.611 [1959 c.157 §3; renumbered 293.740]
- 291.612 [Amended by 1953 c.706 §2; 1957 c.371 §3, 1959 c.245 §1; 1961 c.375 §1, renumbered 293.745]
- 291.613 [1957 c.371 §4; renumbered 293.750]
- 291.614 [Renumbered 293.755]
- 291.616 [Renumbered 293.760]
- 291.618 [Renumbered 293.765]
- 291.620 [Renumbered 293.770]
- 291.622 [Repealed by 1953 c.530 §2]
- 291.624 [Repealed by 1953 c.530 §2]
- 291.630 [1957 c.330 §1; renumbered 293.790]
- 291.652 [Renumbered 283.210]
- 291.654 [Renumbered 283.220]

291.656 [Amended by 1953 c.60 §5; 1957 c.202 §2; 1961 c.167 §34; 1965 c.365 §7; renumbered 283.230]

291.658 [Amended by 1953 c.59 §2; 1957 c.202 §3; 1961 c.167 §35; 1965 c.365 §8; 1967 c.419 §44; renumbered 283.110]

291.659 [1961 c.167 §36, renumbered 283.130]

291.660 [Amended by 1959 c.662 §4; 1965 c.365 §9; renumbered 283.140]

291.662 [Amended by 1959 c.662 §5; 1965 c.365 §10; renumbered 283.150]

291.664 [Amended by 1959 c.662 §6; 1965 c.365 §11; renumbered 283.160]

291.666 [1953 c.61 §1; 1957 c.202 §4; renumbered 283.240]

291.668 [1953 c.61 §2; repealed by 1957 c.202 §6]

291.670 [1957 c.202 §7; 1965 c.365 §12, 1967 c.419 §45; renumbered 283.120]

291.678 [1957 c.202 §1, subsection (2) of 1965 Replacement Part enacted as 1963 c.182 §4; 1965 c.351 §3, renumbered 283.250]

291.702 [Amended by 1961 c.167 §37; renumbered 283.305]

291.704 [Renumbered 283.310]

291.706 [Renumbered 283.315]

291.708 [Amended by 1959 c.662 §19; 1967 c.419 §42; renumbered 283.320]

291.710 [Renumbered 283.325]

291.712 [Renumbered 283.330]

291.714 [Renumbered 283.335]

291.716 [Renumbered 283.340]

291.718 [Renumbered 283.345]

291.720 [Amended by 1953 c.603 §4; 1955 c.46 §1; 1959 c.662 §17, renumbered 283.350]

291.722 [Amended by 1959 c.662 §20, renumbered 283.355]

291.724 [Amended by 1955 c.260 §1; renumbered 283.390]

291.726 [Renumbered 283.395]

## PENALTIES

**291.990 Penalties.** (1) Any person who makes or orders or votes to make any expenditure in violation of any of the provisions of this Act, or who makes or authorizes or causes to be made any disbursement of funds from the State Treasury in violation of any of the provisions of this Act, shall, upon conviction, be punished by a fine of not less than \$500 nor more than \$3,000.

(2) If any person incurs or orders or votes to incur an obligation in violation of any of the provisions of this Act, the person and the sureties on the bond of the person shall be jointly and severally liable therefor to the person in whose favor the obligation was incurred.

(3) Upon certification by the Executive Department or Department of General Services that any state officer or employee of a state agency has failed or refused to comply with any order, rule or regulation made by the department in accordance with the provisions of this Act, the salary of such officer or employee shall not be paid until such order, rule or regulation is complied with.

(4) Any violation of this Act, for which no other penalty is provided in this section, is punishable, upon conviction, by a fine of not more than \$1,000.

(5) As used in this section, "this Act" means ORS 283.010 to 283.060, 283.110, 283.130 to 283.230 and 283.305 to 283.390 or 291.002 to 291.034, 291.202 to 291.222, 291.232 to 291.260 and 291.307. [Amended by 1953 c.530 §2, 1955 c.260 §2; subsections (2) and (3) of 1961 Replacement Part renumbered 293.990, 1967 c.419 §14; subsection (2) of 1965 Replacement Part renumbered 283.990]

