

Requested by Senator THOMSEN

**PROPOSED AMENDMENTS TO  
SENATE BILL 1049**

1 In line 2 of the printed bill, before the period insert “; creating new pro-  
2 visions; amending ORS 237.650, 238.008, 238.082, 238.092, 238.410, 238.415,  
3 238.420, 238.445, 238.447, 238.465, 238.600, 238.645, 238.650, 238.660, 238.661,  
4 238.665, 238.675, 238.700, 238.705, 238A.245, 238A.400, 238A.410, 243.163,  
5 243.800, 341.551 and 399.075 and sections 2 and 3, chapter 118, Oregon Laws  
6 2018; repealing sections 2 and 3, chapter 499, Oregon Laws 2007, sections 2  
7 and 3, chapter 475, Oregon Laws 2015, sections 2, 3 and 4, chapter 6, Oregon  
8 Laws 2016, and section 4, chapter 118, Oregon Laws 2018; and declaring an  
9 emergency.”.

10 Delete lines 4 through 6 and insert:

11

**“TIER 4 PLAN**

12

**“(Definitions)**

13

14

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

16

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

18

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

21

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

1       **“(4)(a) ‘Hour of service’ means:**

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

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

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

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

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

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

25       **“(8) ‘Police officer’ means a police officer as described in ORS**  
26 **238.005.**

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

1 pursuant to section 4 (2) of this 2019 Act.

2 “(10) ‘Retired member’ means a member who has received a dis-  
3 tribution of the vested accounts of the member under section 19 of this  
4 2019 Act and is not reemployed in a qualifying position.

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

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

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

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

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

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

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

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

1 **Act.**

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

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

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

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

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

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

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

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

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

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

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

29 **“(I) Any amount in excess of \$200,000 for a calendar year. If any**  
30 **period over which salary is determined is less than 12 months, the**

1 \$200,000 limitation for that period shall be multiplied by a fraction, the  
2 numerator of which is the number of months in the determination  
3 period and the denominator of which is 12. The Public Employees Re-  
4 tirement Board shall adopt rules adjusting this dollar limit to incor-  
5 porate cost-of-living adjustments authorized by the Internal Revenue  
6 Service.

7  
8 “(Tier 4 Plan Established)  
9

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

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

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

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

8 “(4) A person establishes membership in the system before July 1,  
9 2020, if:

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

12 “(b) The person performed any period of service for a participating  
13 public employer before July 1, 2020, that is credited to the six-month  
14 period of employment required of an employee under ORS 238A.100 or  
15 238A.300 before an employee may become a member of the system.

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

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

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

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

30 “(3) The Oregon Investment Council shall invest the assets of the

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

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

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

14

15 “(Participation by Participating Public Employers)

16

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

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

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



1 **date the public employer elects to participate in the program.**

2  
3 **“(Membership)**

4  
5 **“SECTION 5. Establishing membership. An eligible employee who**  
6 **is employed in a qualifying position on or after July 1, 2020, by a par-**  
7 **ticipating public employer and who will not receive benefits under ORS**  
8 **chapter 238 or 238A for service with the participating public employer**  
9 **pursuant to the provisions of section 2 of this 2019 Act becomes a**  
10 **member of the Tier 4 Plan on the first day of employment.**

11 **“SECTION 6. Termination of membership. Membership under the**  
12 **Tier 4 Plan terminates when:**

13 **“(1) A member dies; or**

14 **“(2) An inactive member receives a distribution of the vested ac-**  
15 **counts of the member under section 14 of this 2019 Act.**

16  
17 **“(Vesting)**

18  
19 **“SECTION 7. Vesting. (1) A member of the Tier 4 Plan becomes**  
20 **vested in the employer account established for the member under**  
21 **section 11 (2) of this 2019 Act on the date the account is established.**

22 **“(2) A member of the Tier 4 Plan becomes vested in the employee**  
23 **account established for the member under section 11 (3) of this 2019**  
24 **Act on the date the employee account is established.**

25 **“(3) A member of the Tier 4 Plan who makes rollover contributions**  
26 **becomes vested in the rollover account established for the member**  
27 **under section 11 (4) of this 2019 Act on the date the rollover account**  
28 **is established.**

29  
30 **“(Contributions and Accounts)**

1       **“SECTION 8. Employer and employee contributions. (1) A partic-**  
2 **ipating public employer shall make employer contributions to the Tier**  
3 **4 Plan in the following amounts:**

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

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

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

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

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

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

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

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

1       **“(2) An agreement under this section to pay the required employee**  
2 **contribution may provide that:**

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

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

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

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

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

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

29       **“(2) The board shall apply contributions made under this section in**  
30 **excess of the amounts contributed by the employer for members under**

1 section 8 of this 2019 Act against the liabilities of the system.

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

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

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

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

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

1       “(5) The board shall provide an annual statement to each active and  
2 inactive member of the plan that reflects the amount credited to the  
3 accounts established under this section.

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

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

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

1 rules for the administration of this limitation, including adjustments  
2 in the annual dollar limitation to reflect cost-of-living adjustments  
3 authorized by the Internal Revenue Service.

4  
5 “(Withdrawal by Inactive Member)  
6

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

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

19  
20 “(Investment Options)  
21

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

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

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

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

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

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

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

28       “(8) A civil action for damages may not be brought against the  
29 state, the State Treasurer, the Oregon Investment Council or the  
30 Public Employees Retirement Board, or any of their officers or em-

1 ployees, by reason of any losses suffered by a member of the Tier 4  
2 Plan or the beneficiaries of a member because of the member's choice  
3 of an investment option approved under this section.

4  
5 **“(Retirement)”**  
6

7 **“SECTION 16. Normal retirement age; normal retirement date. (1)**  
8 **Normal retirement age for a member of the Tier 4 Plan who does not**  
9 **retire from service as a police officer or a firefighter is the earlier of:**

10 **“(a) 65 years of age; or**

11 **“(b) 58 years of age if the member has been an active member in**  
12 **30 or more calendar years.**

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

18 **“(a) 60 years of age; or**

19 **“(b) 53 years of age if the member has been an active member in**  
20 **25 or more calendar years.**

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

24 **“SECTION 17. Earliest retirement age; earliest retirement date. (1)**  
25 **Except as provided in this section, earliest retirement age for a mem-**  
26 **ber of the Tier 4 Plan is 55 years of age.**

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



1 fore the effective date of retirement. Earliest retirement date for a  
2 member described in this subsection is not later than the date the  
3 member reaches 55 years of age.

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

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

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

22

23 “(Death and Disability Benefits)

24

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

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

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

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

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

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

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

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

1       **“(b) The member attains normal retirement age under section 16**  
2 **of this 2019 Act.**

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

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

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

30

1                                   “(Credit for Service in Uniformed Services)  
2

3           **“SECTION 23. Credit for service in uniformed services; rules. The**  
4 **Public Employees Retirement Board shall adopt rules establishing**  
5 **contributions for any period of service in the uniformed services by**  
6 **an eligible employee who leaves a qualifying position for the purpose**  
7 **of performing service in the uniformed services, and who subsequently**  
8 **returns to employment with a participating public employer with re-**  
9 **employment rights under federal law. For the purpose of adopting**  
10 **rules under this section, the board shall consider and take into ac-**  
11 **count all federal law relating to benefits for any period of service in**  
12 **the uniformed services, including 26 U.S.C. 414(u), as in effect on De-**  
13 **cember 31, 2018. Contributions under rules adopted by the board pur-**  
14 **suant to this section may not exceed contributions required under**  
15 **federal law for periods of service in the uniformed services.**

16  
17                                   “(Rollovers)  
18

19           **“SECTION 24. Direct rollovers; rules. (1) To the extent required by**  
20 **law, and except as otherwise provided by rules adopted by the Public**  
21 **Employees Retirement Board under subsection (4) of this section, any**  
22 **portion of a distribution of benefits described in subsection (2) of this**  
23 **section shall, at the election of and in lieu of distribution to the**  
24 **distributee, be paid directly to an eligible retirement plan specified by**  
25 **the distributee.**

26           **“(2) The provisions of subsection (1) of this section apply to a dis-**  
27 **tribution of any benefit under the Tier 4 Plan except a distribution to**  
28 **the extent that the distribution is required under 26 U.S.C. 401(a)(9).**

29           **“(3) The provisions of subsection (1) of this section apply to any**  
30 **portion of a distribution of benefits under the Tier 4 Plan even though**

1 the portion consists of after-tax employee contributions that are not  
2 includable in gross income. Any portion of a distribution that consists  
3 of after-tax employee contributions that are not includable in gross  
4 income may be transferred only to an individual retirement account  
5 or annuity described in 26 U.S.C. 408(a) or (b), or to a qualified defined  
6 contribution or defined benefit plan described in 26 U.S.C. 401(a) or  
7 403(b) that agrees to account separately for amounts transferred, in-  
8 cluding accounting separately for the portion of the distribution that  
9 is includable in gross income and the portion of the distribution that  
10 is not includable in gross income. The amount transferred shall be  
11 treated as consisting first of the portion of the distribution that is  
12 includable in gross income, determined without regard to 26 U.S.C.  
13 402(c)(1).

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

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

21 “(6) For purposes of this section:

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

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

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

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

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

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

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

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

7       “SECTION 25. Distribution of death benefit as rollover distribution.

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

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

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

30

1                                   “(Work After Retirement)  
2

3           **“SECTION 26. A participating public employer may employ a retired**  
4 **member. A retired member reemployed under this section becomes an**  
5 **active member on the first day of employment.**  
6

7                                   “(Rules)  
8

9           **“SECTION 27. Rules. (1) The Public Employees Retirement Board**  
10 **shall adopt rules for the administration of sections 1 to 30 of this 2019**  
11 **Act.**

12           **“(2) All rules adopted by the board under this section become part**  
13 **of the written plan document for the Public Employees Retirement**  
14 **System that is required to maintain the status of the Tier 4 Plan as**  
15 **part of a tax-qualified governmental retirement plan under the Inter-**  
16 **nal Revenue Code and under regulations adopted pursuant to the**  
17 **Internal Revenue Code.**  
18

19                                   “(Changes to Tier 4 Plan)  
20

21           **“SECTION 28. Contract rights under Tier 4 Plan. The Legislative**  
22 **Assembly may change the benefits payable to persons who become**  
23 **members of the Public Employees Retirement System on or after July**  
24 **1, 2020, as described in section 2 of this 2019 Act, as long as the change**  
25 **applies only to benefits attributable to service performed and salary**  
26 **earned on or after the date the change is made.**  
27

28                                   “(Information Technology)  
29

30           **“SECTION 29. Subject to such direction and oversight as may be**

1 provided by the Legislative Assembly, the Public Employees Retirement  
2 Board shall take all steps necessary to develop and implement  
3 the information technology systems needed to implement and carry  
4 out sections 1 to 30 of this 2019 Act.

5  
6 (Legislators)

7  
8 **“SECTION 30. Notwithstanding any other provision of sections 1 to  
9 30 of this 2019 Act:**

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

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



1 **sembly.**

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

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

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

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

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

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

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

28 “(a) Elect to become an active member of the system under ORS chapter  
29 238 for the purpose of service in the Legislative Assembly;

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

1 238 and elect to become a legislator member of the state deferred compen-  
2 sation plan under ORS 237.655 for the purpose of service in the Legislative  
3 Assembly; or

4 “(c) Decline to become an active member of the system under ORS chapter  
5 238 or to become a legislator member of the state deferred compensation plan  
6 under ORS 237.655 for the purpose of service in the Legislative Assembly.

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

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

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

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

21 “(5) A retired member of the Public Employees Retirement System who  
22 is appointed or elected as a member of the Legislative Assembly, and who  
23 established membership in the system on or after August 29, 2003, as de-  
24 scribed in ORS 238A.025, **and before July 1, 2020, as described in section**  
25 **2 of this 2019 Act**, may:

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

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

1 Assembly; or

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

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

10 **“(a) Elect to remain a member of the system under sections 1 to  
11 30 of this 2019 Act for the purpose of service in the Legislative As-  
12 sembly;**

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

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

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

25 **“(a) Elect to become an active member of the system under sections  
26 1 to 30 of this 2019 Act for the purpose of service in the Legislative  
27 Assembly;**

28 **“(b) Decline to become an active member of the system under  
29 sections 1 to 30 of this 2019 Act and elect to become a legislator  
30 member of the state deferred compensation plan under ORS 237.655 for**

1 **the purpose of service in the Legislative Assembly; or**

2 **“(c) Decline to become an active member of the system under**  
3 **sections 1 to 30 of this 2019 Act or to become a legislator member of**  
4 **the state deferred compensation plan under ORS 237.655 for the pur-**  
5 **pose of service in the Legislative Assembly.**

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

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

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

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

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

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

1       “(f) A person described in subsection (7) of this section is deemed  
2 to have declined to become an active member of the system under  
3 sections 1 to 30 of this 2019 Act or to become a legislator member of  
4 the state deferred compensation plan under ORS 237.655, and remains  
5 a retired member of the system under sections 1 to 30 of this 2019 Act  
6 for the purpose of service in the Legislative Assembly.

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

11       “[(8)] (10) An election under this section does not affect the ability of a  
12 person appointed or elected as a member of the Legislative Assembly to  
13 participate in the state deferred compensation plan in the manner provided  
14 by ORS 243.401 to 243.507 as other than a legislator member under ORS  
15 237.655.

16  
17                                       “(Conforming Amendments)  
18

19       “SECTION 32. ORS 238.008 is amended to read:

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

26       “(2) For the purpose of computing salary under this chapter and ORS  
27 chapter 238A, salary includes retroactive payments of wages made to an  
28 employee pursuant to a judgment, administrative order, arbitration award,  
29 conciliation agreement or settlement agreement that resolves a dispute or  
30 claim based on the employee’s rights under employment or wage law or under

1 a collective bargaining agreement. Retroactive payments described in this  
2 subsection shall be allocated to and deemed paid in the periods of the  
3 employee's active or inactive membership in which the work was done or in  
4 which the work would have been done.

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

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

9 “238.410. (1) As used in this section:

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

17 “(b) ‘Eligible person’ means:

18 “(A) A member of the Public Employees Retirement System who is retired  
19 for service or disability and is receiving a retirement allowance or benefit  
20 under the system **or is a retired member under sections 1 to 30 of this**  
21 **2019 Act**, and a spouse or dependent of that member;

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

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

29 “(D) A surviving spouse or dependent of a deceased retired member of the  
30 system or of a person who was receiving retirement pay or a pension calcu-

1 lated under ORS 1.314 to 1.380 (1989 Edition) if the surviving spouse or de-  
2 pendent was covered at the time of the decedent's death by a health care  
3 insurance plan contracted for under this section.

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

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

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

1       “(4) Except as provided in ORS 238.415 and 238.420, the board may deduct  
2 monthly from the retirement allowance or benefit, retirement pay or pension  
3 payable to an eligible person who elects to participate in a health care in-  
4 surance plan the monthly cost of the coverage for the person under a health  
5 care insurance contract entered into under this section and the administra-  
6 tive costs incurred by the board under this section, and shall pay those  
7 amounts into the Standard Retiree Health Insurance Account established  
8 under subsection (7) of this section. The board by rule may establish other  
9 procedures for collecting the monthly cost of the coverage and the adminis-  
10 trative costs incurred by the board under this section if the board does not  
11 deduct those costs from the retirement allowance or benefit, retirement pay  
12 or pension payable to an eligible person.

13       “(5) Subject to applicable provisions of ORS chapter 183, the board may  
14 make rules not inconsistent with this section to determine the terms and  
15 conditions of eligible person participation and coverage and otherwise to  
16 implement and carry out the purposes and provisions of this section and ORS  
17 238.420.

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

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



1 this section and to pay the administrative costs incurred by the board under  
2 this section.

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

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

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

24 “238.415. (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

26 “(3) On or before January 1 of each year, the Public Employees Retire-  
27 ment Board shall calculate the average difference between the health insur-  
28 ance premiums paid by retired state employees under contracts entered into  
29 by the board under ORS 238.410 and the health insurance premiums paid by  
30 state employees who are not retired under contracts entered into by the

1 Public Employees' Benefit Board. For the purposes of subsection (2) of this  
2 section, an eligible retired state employee shall be entitled to receive toward  
3 the monthly cost of coverage under a health insurance contract entered into  
4 under ORS 238.410:

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

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

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

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

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

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

28 “(4) Pursuant to section 401(h) of the Internal Revenue Code, the Retiree  
29 Health Insurance Premium Account is established within the Public Em-  
30 ployees Retirement Fund, separate and distinct from the General Fund. In-

1 terest earned by the account shall be credited to the account. All moneys in  
2 the account are continuously appropriated to the Public Employees Retire-  
3 ment Board and may be used only to pay costs of health care insurance  
4 contract coverage under subsection (2) of this section, paying the adminis-  
5 trative costs incurred by the board under this section and investment of  
6 moneys in the account under any law of this state specifically authorizing  
7 that investment.

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

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

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

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

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

29 “238.420. (1) As used in this section, ‘eligible retired member’ means:

30 “(a) A retired member of the Public Employees Retirement System who

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

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

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

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

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

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

28 “(4) Pursuant to section 401(h) of the Internal Revenue Code, the Retire-  
29 ment Health Insurance Account is established within the Public Employees  
30 Retirement Fund, separate and distinct from the General Fund. Interest

1 earned by the account shall be credited to the account. All moneys in the  
2 account are continuously appropriated to the Public Employees Retirement  
3 Board and may be used only to pay costs of health care insurance contract  
4 coverage under subsection (3) of this section, paying the administrative costs  
5 incurred by the board under this section and investment of moneys in the  
6 account under any law of this state specifically authorizing that investment.

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

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

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

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

24 “238.445. (1) Except as provided in this section, the right of a person to  
25 a pension, an annuity or a retirement allowance, to the return of contribu-  
26 tion, the pension, annuity or retirement allowance itself, any optional benefit  
27 or death benefit, or any other right accrued or accruing to any person under  
28 the provisions of this chapter or ORS chapter 238A **or sections 1 to 30 of**  
29 **this 2019 Act**, and the money in the various funds created by ORS 238.660  
30 and 238.670, shall be exempt from garnishment and all state, county and

1 municipal taxes heretofore or hereafter imposed, except as provided under  
2 ORS chapter 118, shall not be subject to execution, garnishment, attachment  
3 or any other process or to the operation of any bankruptcy or insolvency law  
4 heretofore or hereafter existing or enacted, and shall be unassignable.

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

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

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

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

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

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

26 “238.465. (1) Notwithstanding ORS 238.445 or any other provision of law,  
27 payments under this chapter or ORS chapter 238A of any pension, annuity,  
28 retirement allowance, disability benefit, death benefit, refund benefit or  
29 other benefit that would otherwise be made to a person entitled thereto un-  
30 der this chapter or ORS chapter 238A **or sections 1 to 30 of this 2019 Act**

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

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

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

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

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

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

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



1       “(d) Except as provided in ORS 238.305 (10) and 238.325 (7), that any per-  
2 son designated by the member as a beneficiary under ORS 238.300, 238.305,  
3 238.325[,] **or** 238A.190 [*or* 238A.400] be changed, even though the member has  
4 retired and has begun receiving a retirement allowance or pension. If a  
5 change of beneficiary is ordered under this paragraph, the board shall adjust  
6 the anticipated benefits that would be payable to the member and the bene-  
7 ficiary to ensure that the cost to the system of providing benefits to the  
8 member and the new beneficiary does not exceed the cost that the system  
9 would have incurred to provide benefits to the member and the original  
10 beneficiary. The judgment, order or settlement may not provide for any  
11 change to the option selected by the retired member under ORS 238.300,  
12 238.305, 238.320, 238.325[,] **or** 238A.190 [*or* 238A.400] as to the form of the  
13 retirement benefit.

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

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

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

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

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

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

1 If the alternate payee fails to designate a beneficiary for the purposes of  
2 death benefits payable under ORS 238A.410, the benefits shall be paid as  
3 provided by ORS 238A.410 (3). If a judgment, order or agreement awards an  
4 interest to an alternate payee, and if the alternate payee predeceases the  
5 member before the alternate payee has commenced receiving benefits, the  
6 alternate payee shall be considered a member of the system who died before  
7 retiring for the purposes of the death benefits provided in ORS 238.390,  
8 238.395, 238A.230 and 238A.410, but for purposes of the death benefits pro-  
9 vided in ORS 238.395, the alternate payee shall be considered a member of  
10 the system who died before retiring only if the member would have been el-  
11 igible for death benefits under ORS 238.395 had the member died at the same  
12 time as the alternate payee. Payment of the death benefits to the benefi-  
13 cians, estate or other persons entitled to receive the benefits under ORS  
14 238.390, 238.395, 238A.230 and 238A.410, shall constitute payment in full of  
15 the alternate payee's interest under the judgment, order or agreement.

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

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

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

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

29 “(7) An alternate payee who elects to begin receiving payments under  
30 subsection (1) of this section before the member's effective date of retirement

1 is not eligible to receive any additional payment by reason of credit in the  
2 system acquired by the member after the alternate payee begins to receive  
3 payments.

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

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

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

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

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

1 “238.600. (1) A system of retirement and of benefits at retirement or death  
2 for employees of public employers hereby is established and shall be known  
3 as the Public Employees Retirement System. The Public Employees Retirement  
4 System consists of this chapter and ORS chapter 238A **and sections 1**  
5 **to 30 of this 2019 Act**. It is the intent of the Legislative Assembly that the  
6 system be qualified and maintained under sections 401(a), 414(d) and 414(k)  
7 of the Internal Revenue Code as a tax-qualified defined benefit governmental  
8 plan.

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

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

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

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

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

1 “(2) All rules adopted by the board become part of the written plan doc-  
2 ument of the Public Employees Retirement System for the purpose of the  
3 status of the system and the Public Employees Retirement Fund as a quali-  
4 fied governmental retirement plan and trust under the Internal Revenue  
5 Code and under regulations adopted pursuant to the Internal Revenue Code.

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

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

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

30 “(3) The State of Oregon and other public employers that make contribu-

1 tions to the fund have no proprietary interest in the fund or in the contri-  
2 butions made to the fund by them. The state and other public employers  
3 disclaim any right to reclaim those contributions and waive any right of  
4 reclamation they may have in the fund. This subsection does not prohibit  
5 alteration or refund of employer contributions if the alteration or refund is  
6 authorized under this chapter or ORS chapter 238A and is due to erroneous  
7 payment or decreased liability for employer contributions under the system.  
8 This subsection does not prohibit the offset of contributions to the individual  
9 account program under ORS 238.229 (5).

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

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

1 amount thereof.

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

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

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

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

27 “(10) The board shall appoint a committee to advise the board on legis-  
28 lative proposals for changes in the benefits provided under this chapter and  
29 ORS chapter 238A. The committee must have an equal number of members  
30 representing labor and management. No costs of reviewing legislative pro-

1 posals and making recommendations under this subsection may be charged  
2 to the fund. Any member of the committee who is an active member of the  
3 system shall be released by the participating public employer who employs  
4 the member for the purpose of conducting the official business of the com-  
5 mittee, and the wages or salary of the member may not be reduced by the  
6 employer during periods that the member is released from duty for the pur-  
7 pose of conducting the official business of the committee.

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

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

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

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

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

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

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

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

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

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

29 “(c) The board shall establish procedures for the filing of a delayed claim  
30 by a beneficiary of a deceased member who would otherwise be entitled to



1 receive a benefit payment. Delayed claims may be filed after the 10-year pe-  
2 riod provided for in paragraph (a) of this subsection.

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

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

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

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

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

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

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

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

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

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

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

29 “238.705. (1) All public employers that are members of the system shall  
30 promptly and regularly remit to the Public Employees Retirement Board all

1 contributions required of them by law and furnish all reports required by the  
2 board.

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

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

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

1 the board certifies to the department that the failure has been remedied. The  
2 board shall send a copy of each certification it makes under this subsection  
3 to the public employer affected.

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

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

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

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

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

30 “(b) Six months of employment that is not interrupted by more than 30

1 consecutive working days.

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

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

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

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

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

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

1 section.

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

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

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

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

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

29 **“(f) An administrative or academic employee who elects to partic-**  
30 **ipate in the Optional Retirement Plan, and who is a vested member**

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

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

29 “(7) Any amounts transferred from the Public Employees Retirement Fund  
30 under subsection (6) of this section shall be transferred directly to the Op-

1 tional Retirement Plan by the Public Employees Retirement Board and may  
2 not be made available to the employee.

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

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

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

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

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

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

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



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

3 “(B) Completion of:

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

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

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

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

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

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

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

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

1 “341.551. (1) Notwithstanding any provision of ORS chapter 238 or 238A,  
2 the Office of Community Colleges and Workforce Development may establish  
3 and administer an optional retirement plan for administrative employees of  
4 community college districts who are eligible for membership in the Public  
5 Employees Retirement System. Any community college district may partic-  
6 ipate in the plan by giving written notice to the office.

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

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

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

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

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

1 employees are employed by a community college district that participates in  
2 the plan, whether by reason of employment by the district or any other par-  
3 ticipating public employer.

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

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

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

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

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

1 member's employee account, rollover account and employer account, to the  
2 extent the member is vested in those accounts under ORS 238A.320, be  
3 transferred to the optional retirement plan. The request must be made at the  
4 time the member elects to participate in the optional retirement plan. Upon  
5 receiving the request, the Public Employees Retirement Board shall transfer  
6 the amounts directly to the optional retirement plan and shall terminate the  
7 membership of the employee in the individual account program.

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

27 **“[(f)] (g) Notwithstanding paragraphs (b), (d) [and], (e) and (f) of this**  
28 **subsection, the Public Employees Retirement Board shall not treat any em-**  
29 **ployee as an inactive member under the provisions of this subsection for the**  
30 **purpose of receiving any benefit under ORS chapter 238 or 238A that requires**

1 that the employee be separated from all service with participating public  
2 employers and with employers who are treated as part of a participating  
3 public employer's controlled group under the federal laws and rules govern-  
4 ing the status of the Public Employees Retirement System and the Public  
5 Employees Retirement Fund as a qualified governmental retirement plan and  
6 trust.

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

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

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

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

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

1 “(b) The employee becomes a member of the Public Employees Retirement  
2 System under ORS chapter 238A if the member meets all requirements for  
3 membership under ORS chapter 238A; and

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

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

9  
10 **“WORK AFTER RETIREMENT**

11  
12 **“SECTION 50. (1) Section 2, chapter 499, Oregon Laws 2007, as**  
13 **amended by sections 3 and 10, chapter 390, Oregon Laws 2009, is re-**  
14 **pealed.**

15 **“(2) Section 3, chapter 499, Oregon Laws 2007, as amended by section**  
16 **1, chapter 108, Oregon Laws 2015, is repealed.**

17 **“(3) Section 2, chapter 475, Oregon Laws 2015, is repealed.**

18 **“(4) Section 3, chapter 475, Oregon Laws 2015, as amended by section**  
19 **1, chapter 48, Oregon Laws 2018, is repealed.**

20 **“(5) Sections 2, 3 and 4, chapter 6, Oregon Laws 2016, are repealed.**

21 **“SECTION 51. ORS 238.082 is amended to read:**

22 **“238.082. (1) Subject to the limitations in this section, any public employer**  
23 **may employ any member who is retired for service if the administrative head**  
24 **of the public employer is satisfied that such employment is in the public in-**  
25 **terest.**

26 ***“(2) Except as provided in this section, the period or periods of employment***  
27 ***by one or more public employers of a retired member who is reemployed under***  
28 ***this section may not total 1,040 hours or more in any calendar year.]***

29 **“(2)(a) A public employer that employs a retired member under this**  
30 **section shall apply the employer’s contribution rate under ORS 238.225**

1 to the wages paid to the retired member, and shall make a payment  
2 to the Public Employees Retirement Fund in that amount that is in  
3 addition to the normal employer contributions paid by the public em-  
4 ployer.

5 **“(b) The Public Employees Retirement Board shall apply payments**  
6 **made by a public employer under this subsection against the liabilities**  
7 **of the public employer.**

8 “(3) A retired member who is receiving old-age, survivors or disability  
9 insurance benefits under the federal Social Security Act may be employed  
10 under this section [*for the number of hours permitted by subsection (2) of this*  
11 *section, or*] for **no more than** the number of hours for which the salary  
12 equals the maximum allowed for receipt of the full amount of those benefits  
13 to which the person is entitled[, *whichever is greater*].

14 **“(4) Employment under this section does not affect the status of a**  
15 **person as a retired member of the system and a recipient of retirement**  
16 **benefits under this chapter.**

17 “[*(4) Except as provided in subsection (9) of this section, the limitations on*  
18 *employment imposed by subsections (2) and (3) of this section do not apply to*  
19 *a retired member who is employed as a teacher or as an administrator, as those*  
20 *terms are defined in ORS 342.120, if the retired member is employed by a*  
21 *school district or community college district located within a county with a*  
22 *population of not more than 35,000 inhabitants according to the latest federal*  
23 *decennial census, or is employed by an education service district and the re-*  
24 *tired member’s primary work duties are performed in a county with a popu-*  
25 *lation of not more than 35,000 inhabitants according to the latest federal*  
26 *decennial census. A retired member who is employed under this subsection as*  
27 *a teacher, as defined in ORS 342.120, by the same public employer that em-*  
28 *ployed the member at the time of retirement remains in the same collective*  
29 *bargaining unit that included the member before retirement.*]

30 “[*(5) Except as provided in subsection (9) of this section, the limitations on*



1 *employment imposed by subsections (2) and (3) of this section do not apply to*  
2 *a retired member who is employed:]*

3 *“(a) By the sheriff of a county with a population of fewer than 75,000 in-*  
4 *habitants, according to the latest federal decennial census;]*

5 *“(b) By the municipal police department of a city with a population of*  
6 *fewer than 15,000 inhabitants, according to the latest federal decennial*  
7 *census;]*

8 *“(c) By the state or a county for work in a correctional institution located*  
9 *in a county with a population of fewer than 75,000 inhabitants, according to*  
10 *the latest federal decennial census;]*

11 *“(d) By the Black Butte Ranch Rural Fire Protection District, the Black*  
12 *Butte Ranch Service District or the Sunriver Service District;]*

13 *“(e) By the Oregon State Police for work in a county with a population*  
14 *of fewer than 75,000 inhabitants, according to the latest federal decennial*  
15 *census;]*

16 *“(f) As a deputy director or assistant director of the Department of Human*  
17 *Services, if the Governor approves the exemption for the person from the limi-*  
18 *tations on employment imposed in subsections (2) and (3) of this section; or]*

19 *“(g) As a deputy director or assistant director of the Oregon Health Au-*  
20 *thority, if the Governor approves the exemption for the person from the limi-*  
21 *tations on employment imposed in subsections (2) and (3) of this section.]*

22 *“(6) Except as provided in subsection (9) of this section, the limitations on*  
23 *employment imposed by subsections (2) and (3) of this section do not apply to*  
24 *a retired member who is employed to temporarily replace an employee who*  
25 *serves in the National Guard or in a reserve component of the Armed Forces*  
26 *of the United States and who is called to federal active duty.]*

27 *“(7) Except as provided in subsection (9) of this section, the limitations on*  
28 *employment imposed by subsections (2) and (3) of this section do not apply to*  
29 *a retired member who is employed by a road assessment district organized*  
30 *under ORS 371.405 to 371.535.]*

1        “[8] *Except as provided in subsection (9) of this section, the limitations on*  
2 *employment imposed by subsections (2) and (3) of this section do not apply to*  
3 *a retired member who is a nurse and is employed by a public employer as a*  
4 *nurse or for the purpose of teaching nursing during the period in which a*  
5 *nursing workforce shortage declared by the Legislative Assembly or the Gov-*  
6 *ernor is in effect.]*

7        “[9)(a) *Except as provided in paragraph (b) of this subsection, subsections*  
8 *(4) to (8) of this section do not apply to any member who retires under the*  
9 *provisions of ORS 238.280 (1), (2) or (3).]*

10       “[b) *Subsection (4) of this section applies to a person who retires under the*  
11 *provisions of ORS 238.280 (1), (2) or (3) as long as the person’s date of retire-*  
12 *ment is more than six months before the date the person is employed under*  
13 *subsection (4) of this section.]*

14       “[10) *Employment under this section does not affect the status of a person*  
15 *as a retired member of the system and a recipient of retirement benefits under*  
16 *this chapter.]*

17       “[11) *Hours worked by a person employed under subsections (4) to (8) of*  
18 *this section shall not be counted for the purpose of the limitations on employ-*  
19 *ment imposed by subsections (2) and (3) of this section.]*

20       **“SECTION 52.** ORS 238A.245 is amended to read:

21       **“238A.245. (1) A participating public employer may employ a retired**  
22 **member if the administrative head of the public employer is satisfied**  
23 **that such employment is in the public interest.**

24       **“(2)(a) A public employer that employs a retired member under this**  
25 **section shall apply the employer’s contribution rate under ORS 238.225**  
26 **to the wages paid to the retired member, and shall make a payment**  
27 **to the Public Employees Retirement Fund in that amount that is in**  
28 **addition to the normal employer contributions paid by the public em-**  
29 **ployer.**

30       **“(b) The Public Employees Retirement Board shall apply payments**

1 **made by a participating public employer under this subsection against**  
2 **the liabilities of the public employer.**

3 **“(3) A retired member who is receiving old-age, survivors or disa-**  
4 **bility insurance benefits under the federal Social Security Act may be**  
5 **employed under this section for no more than the number of hours for**  
6 **which the salary equals the maximum allowed for receipt of the full**  
7 **amount of those benefits to which the person is entitled.**

8 **“(4) Employment under this section does not affect the status of a**  
9 **person as a retired member of the system and a recipient of retirement**  
10 **benefits under this chapter.**

11 *“(1) Except as provided in ORS 237.650 and 238A.250, the Public Em-*  
12 *ployees Retirement Board shall cease making pension payments to a retired*  
13 *member of the pension program who is reemployed by a participating public*  
14 *employer in a qualifying position. A retired member of the pension program*  
15 *who is employed in a qualifying position becomes an active member of the*  
16 *pension program without serving the probationary period provided for in ORS*  
17 *238A.100.]*

18 *“(2) If a retired member of the pension program is reemployed under the*  
19 *provisions of this section, any option chosen by the member under ORS*  
20 *238A.190 is canceled, and upon retiring thereafter the member may elect any*  
21 *option provided for in ORS 238A.180 and 238A.190. The board shall recalcu-*  
22 *late the pension of the member upon subsequent retirement.]*

23 **“SECTION 53. ORS 238.092 is amended to read:**

24 **“238.092. [(1)] Notwithstanding any other provision of this chapter:**

25 **“[(a)] (1) A retired member of the Public Employees Retirement System**  
26 **who has retired as other than a member of the Legislative Assembly and who**  
27 **is thereafter appointed or elected as a member of the Legislative Assembly**  
28 **may elect, by giving the Public Employees Retirement Board written notice,**  
29 **to receive the pension and annuity provided by this chapter for service as**  
30 **other than a member of the Legislative Assembly, and be an active member**

1 of the system as a member of the Legislative Assembly for the purpose of  
2 service in the Legislative Assembly. A person may make an election under  
3 this paragraph only if the person becomes an active member of the system  
4 under this chapter for the purpose of service in the Legislative Assembly as  
5 provided in ORS 237.650 (3). Notice of an election under this paragraph must  
6 be given by the person not more than 30 days after the person takes office.

7 “[*b*] **(2)** A member of the Legislative Assembly who is a member of the  
8 system as a member of the Legislative Assembly and who becomes eligible  
9 to retire by reason of service as other than a member of the Legislative As-  
10 sembly, without regard to when that service was performed, may elect, by  
11 giving the board written notice, to retire and receive the pension and annu-  
12 ity provided by this chapter for service as other than a member of the Leg-  
13 islative Assembly, and to continue, for the purpose of service in the  
14 Legislative Assembly, as an active member of the system as a member of the  
15 Legislative Assembly.

16 “[*c*] **(3)** Upon receipt of the notice provided for in [*paragraphs (a) and*  
17 *(b) of this subsection*] **subsections (1) and (2) of this section**, the board  
18 shall determine that portion of the accumulated contributions, if any, of the  
19 member and interest thereon attributable to service as other than a member  
20 of the Legislative Assembly, which shall be used in determining the amount  
21 of the annuity the member shall receive for that service. The portion of the  
22 accumulated contributions, if any, of the member and interest thereon at-  
23 tributable to service as a member of the Legislative Assembly shall remain  
24 in the member account of the member and, together with any subsequent  
25 contributions and interest thereon, be used in determining the amount of the  
26 additional annuity the member shall receive for that service upon subsequent  
27 retirement. If the member does not have a member account, the board shall  
28 determine the member’s retirement allowance for nonlegislative service based  
29 on the number of years of nonlegislative service, and shall determine any  
30 additional benefit to be received after the member subsequently retires based

1 on the number of years of service in the Legislative Assembly.

2       “[(2) *If a retired member of the system is employed by the Legislative As-*  
3 *sembly, or by the Oregon State Police, for the purpose of service during a*  
4 *regular or special session of the Legislative Assembly, the hours worked dur-*  
5 *ing the session shall not be counted for the purpose of the limitations on em-*  
6 *ployment imposed by ORS 238.082 (2) and (3).]*

7       “**SECTION 54.** ORS 243.163 is amended to read:

8       “243.163. A member of the Legislative Assembly who is receiving a pen-  
9 sion or annuity under ORS 238.092 (1)[(a)] or 238A.250 (1) shall be eligible  
10 to participate as a retired state officer in one of the group benefit plans de-  
11 scribed in ORS 243.135 after the member ceases to be a member of the Leg-  
12 islative Assembly if the member applies to the Public Employees’ Benefit  
13 Board within 60 days after the member ceases to be a member of the Legis-  
14 lative Assembly.

15       “**SECTION 55.** ORS 399.075 is amended to read:

16       “399.075. (1) The Adjutant General, with the approval of the Governor,  
17 may order members of the organized militia to state active duty as defined  
18 in the Oregon Code of Military Justice. Members, while on state active  
19 duty, shall receive not less than the pay and allowances of their corre-  
20 sponding grades in the Armed Forces of the United States in accordance with  
21 a schedule approved by the Adjutant General for the period of time in state  
22 active duty. State active duty under this subsection includes, but is not  
23 limited to, support of federal, state and local drug eradication, interdiction  
24 and other counterdrug operations under a counterdrug support plan approved  
25 by the Governor, and reasons related to homeland security. When partic-  
26 ipating in such support operations, and to the extent authorized by 32 U.S.C.  
27 112, applicable regulations of the National Guard Bureau and the Oregon  
28 Counterdrug Support Plan, the Oregon Military Department is designated  
29 as a law enforcement agency for the purpose of carrying out federal asset  
30 forfeiture laws only.

1       “(2) Members of the organized militia serving on courts-martial, courts  
2 of inquiry, efficiency boards, medical boards or other special duty requiring  
3 absence from their stations or business under competent orders may be re-  
4 imbursement for necessary expenses incurred at the rate established for state  
5 employees under appropriate travel regulations issued by the Oregon De-  
6 partment of Administrative Services.

7       “(3) In lieu of other provisions of this chapter, a medical examiner may  
8 be paid for services and necessary disbursements and a properly appointed  
9 judge advocate may be paid for legal services and necessary disbursements  
10 in any suit, action or proceeding, such amounts as shall be approved by the  
11 Governor.

12       “(4) Members of the organized militia shall not receive from the state the  
13 pay or the pay and allowances provided for by this section when eligible for  
14 such pay and allowances from federal funds.

15       “(5) Notwithstanding any of the provisions of this chapter, members of the  
16 organized militia may with their consent perform without pay or without pay  
17 and allowances any of the types of military duty prescribed in this chapter  
18 and ORS chapters 396 and 398 pursuant to orders issued by competent mili-  
19 tary authority; provided however, that necessary traveling expenses,  
20 subsistence and per diem allowances may be furnished such members within  
21 the discretion of the Adjutant General and within the amount appropriated  
22 therefor.

23       “(6) All pay and allowances provided for by this chapter, except per diem,  
24 mileage and expenses while traveling under orders shall be subject to be  
25 applied to the payment of penalties and fines imposed by military courts, and  
26 to the payment of any shortage of or injury to state or United States prop-  
27 erty or funds for which a member of the organized militia is responsible or  
28 accountable where such responsibility has been fixed by competent authority.

29       “(7)(a) Except as provided in paragraph (b) of this subsection, members  
30 of the organized militia who are ordered to state active duty shall be con-

1 sidered temporary employees of the military department.

2 “(b) Members of the organized militia who are ordered to state active  
3 duty are not subject to ORS chapter 240 and ORS 243.650 to 243.782.

4 “[~~(8)~~ *The limitations on employment imposed by ORS 238.082 (2) and (3)*  
5 *do not apply to a retired member of the Public Employees Retirement System*  
6 *who has attained normal retirement age and is on state active duty. Hours*  
7 *served by a person under this subsection shall not be counted for the purpose*  
8 *of the limitations on employment imposed by ORS 238.082 (2) and (3).*]

9

10

## “INVESTMENT OPTIONS

11

12 “**SECTION 56.** Section 2, chapter 118, Oregon Laws 2018, is amended to  
13 read:

14 “**Sec. 2.** (1) Except as provided in subsection [~~(6)~~] **(7)** of this section, the  
15 Public Employees Retirement Board, in consultation with the office of the  
16 State Treasurer, shall adopt rules providing that if the Oregon Investment  
17 Council invests the assets of the individual account program in multiple risk  
18 categories depending on the characteristics of an individual member, a  
19 member of the individual account program may elect to have the moneys in  
20 the member’s individual accounts established under ORS 238A.350 deposited  
21 into an investment option approved by the council.

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

26 “(3) **The board shall give each member of the individual account**  
27 **program a disclosure statement in writing that contains information**  
28 **regarding the investment options approved under this section, includ-**  
29 **ing the probable income and probable safety of the moneys invested,**  
30 **that persons of reasonable prudence and discretion require when de-**

1 **termining the permanent disposition of their funds.**

2 “[3] (4) Subject to such direction and oversight as may be provided by  
3 the Legislative Assembly, the board shall take all steps necessary to develop  
4 and implement the information technology systems needed to implement and  
5 carry out this section.

6 “[4] (5) The board may contract with a private provider for purposes of  
7 implementing this section. The board is not subject to the provisions of ORS  
8 chapter 279A or 279B in awarding a contract under the provisions of this  
9 subsection. The board shall establish procedures for inviting proposals and  
10 awarding contracts under this subsection.

11 “[5] (6) The board may adopt rules as necessary to implement this sec-  
12 tion, but the council and the office of the State Treasurer retain authority  
13 over investment decisions required to implement this section.

14 “[6] (7) The board may not adopt rules under subsection (1) of this sec-  
15 tion that violate state or federal laws or regulations.

16 **“SECTION 57.** Section 3, chapter 118, Oregon Laws 2018, is amended to  
17 read:

18 **“Sec. 3.** The Public Employees Retirement Board shall allow members of  
19 the individual account program to make an election under section 2, [*of this*  
20 *2018 Act*] **chapter 118, Oregon Laws 2018**, that becomes effective on Janu-  
21 ary 1, [2019] **2020**.

22 **“SECTION 58.** Section 59 of this 2019 Act is added to and made a  
23 **part of ORS chapter 238A.**

24 **“SECTION 59.** A civil action for damages may not be brought  
25 **against the state, the State Treasurer, the Oregon Investment Council**  
26 **or the Public Employees Retirement Board, or any of their officers or**  
27 **employees, by reason of any losses suffered by a member of the indi-**  
28 **vidual account program or the beneficiaries of a member because of**  
29 **the member’s choice of an investment option approved under section**  
30 **2, chapter 118, Oregon Laws 2018.**



1       **“SECTION 60. Section 4, chapter 118, Oregon Laws 2018, is repealed.**

2  
3       **“DISTRIBUTIONS UNDER INDIVIDUAL ACCOUNT PROGRAM**

4  
5       **“SECTION 61.** ORS 238A.400, as amended by section 8, chapter 101,  
6 Oregon Laws 2018, is amended to read:

7       “238A.400. (1) Upon retirement on or after the earliest retirement date,  
8 as described in ORS 238A.165, a member of the individual account program  
9 shall receive in a lump sum the amounts in the member’s employee account,  
10 rollover account and employer account to the extent the member is vested  
11 in those accounts under ORS 238A.320.

12       “[(2) *In lieu of a lump sum payment under subsection (1) of this section, a*  
13 *member of the individual account program may elect to receive the amounts in*  
14 *the member’s employee account and employer account, to the extent the member*  
15 *is vested in those accounts under ORS 238A.320, in substantially equal in-*  
16 *stallments paid over a period of 5, 10, 15 or 20 years, or over a period that is*  
17 *equal to the anticipated life span of the member as actuarially determined by*  
18 *the Public Employees Retirement Board. Installments may be made on a*  
19 *monthly, quarterly or annual basis. In no event may the period selected by the*  
20 *member exceed the time allowed by the minimum distribution requirements*  
21 *described in subsection (5) of this section. The board shall by rule establish*  
22 *the manner in which installments will be adjusted to reflect investment gains*  
23 *and losses on the unpaid balance during the payout period elected by the*  
24 *member under this subsection. The board by rule may establish minimum*  
25 *monthly amounts payable under this subsection. The board may require that*  
26 *a lump sum payment, or an installment schedule different than the schedules*  
27 *provided for in this subsection, be used to pay the vested amounts in the*  
28 *member’s accounts if those amounts are not adequate to generate the minimum*  
29 *monthly amounts specified by the rule.]*

30       “[(3) *A member of the individual account program electing to receive in-*

1 *stallments under subsection (2) of this section must designate a beneficiary or*  
2 *beneficiaries. In the event the member dies before all amounts in the employee*  
3 *and vested employer accounts are paid, all remaining installment payments*  
4 *shall be made to the beneficiary or beneficiaries designated by the member.*  
5 *A beneficiary may elect to receive a lump sum distribution of the remaining*  
6 *amounts.]*

7 “[4] (2) A member who is entitled to receive retirement benefits under  
8 ORS chapter 238 may receive vested amounts in the member’s employee ac-  
9 count, rollover account and employer account in the manner provided by this  
10 section when the member retires for service under the provisions of ORS  
11 chapter 238.

12 “[5] (3) Notwithstanding any other provision of ORS 238A.300 to  
13 238A.415, the entire interest of a member of the individual account program  
14 must be distributed over a time period commencing no later than the latest  
15 retirement date set forth in ORS 238A.170, and must be distributed in a  
16 manner that satisfies all other minimum distribution requirements of 26  
17 U.S.C. 401(a)(9) and regulations implementing that section, as in effect on  
18 December 31, 2017. The **Public Employees Retirement** Board shall adopt  
19 rules implementing those minimum distribution requirements.

20 **“SECTION 62.** ORS 238A.410, as amended by section 9, chapter 101,  
21 Oregon Laws 2018, is amended to read:

22 “238A.410. (1) If a member of the individual account program dies before  
23 retirement, the amounts in the member’s employee account, rollover account  
24 and employer account, to the extent the member is vested in those accounts  
25 under ORS 238A.320, shall be paid in a lump sum to the beneficiary or ben-  
26 eficiaries designated by the member for the purposes of this section.

27 “(2) If a member of the individual account program is married at the time  
28 of death, or there exists at the time of death any other person who is con-  
29 stitutionally required to be treated in the same manner as a spouse for the  
30 purpose of retirement benefits, the spouse or other person shall be the ben-

1 eficiary for purposes of the death benefit payable under this section unless  
2 the spouse or other person consents to the designation of a different benefi-  
3 ciary or beneficiaries before the designation has been made and the consent  
4 has not been revoked by the spouse or other person as of the time of the  
5 member's death. Consent and revocation of consent must be in writing, ac-  
6 knowledged by a notary public, and submitted to the Public Employees Re-  
7 tirement Board in accordance with rules adopted by the board. If the  
8 member's spouse is designated as the member's beneficiary and the marriage  
9 of the member and spouse is subsequently dissolved, the former spouse shall  
10 be treated as predeceasing the member for purposes of this section, unless  
11 the member expressly designates the former spouse as beneficiary after the  
12 effective date of the dissolution or the former spouse is required to be des-  
13 igned as a beneficiary under the provisions of ORS 238.465.

14 “(3) [*For purposes of this section and ORS 238A.400 (3),*] If a member fails  
15 to designate a beneficiary, or if the person or persons designated do not  
16 survive the member, the death benefit provided for in this section shall be  
17 paid to the following person or persons, in the following order of priority:

18 “(a) The member's surviving spouse or other person who is constitu-  
19 tionally required to be treated in the same manner as a spouse;

20 “(b) The member's surviving children, in equal shares; or

21 “(c) The member's estate.

22 “(4) The entire amount of a deceased member's vested accounts must be  
23 distributed by December 31 of the fifth calendar year after the year in which  
24 the member died. Notwithstanding any other provision of this chapter, dis-  
25 tributions of death benefits under the individual account program must  
26 comply with the minimum distribution requirements of 26 U.S.C. 401(a)(9)  
27 and the regulations implementing that section, as in effect on December 31,  
28 2017. The Public Employees Retirement Board shall adopt rules implementing  
29 those minimum distribution requirements.

30

1           **“AMORTIZATION OF UNFUNDED ACTUARIAL LIABILITY**

2  
3           **“SECTION 63. In the year 2019, the Public Employees Retirement**  
4 **Board shall determine the liabilities of the Public Employees Retirement**  
5 **System attributable to the benefits to be provided to members**  
6 **who established membership in the system before August 29, 2003, and**  
7 **shall set the amount of contributions to be made by participating**  
8 **public employers, and by other public employers that are required to**  
9 **make contributions on behalf of members, to ensure that those liabil-**  
10 **ities will be funded 22 years after the date on which the determination**  
11 **is made.**

12           **“SECTION 64. Section 63 of this 2019 Act is repealed on January 2,**  
13 **2020.**

14  
15                   **“EXPEDITED REVIEW BY SUPREME COURT**

16  
17           **“SECTION 65. (1) Jurisdiction is conferred upon the Supreme Court**  
18 **to determine in the manner provided by this section whether this 2019**  
19 **Act breaches any contract between members of the Public Employees**  
20 **Retirement System and their employers or violates any provision of**  
21 **the Oregon Constitution or of the United States Constitution, includ-**  
22 **ing but not limited to impairment of contract rights of members of the**  
23 **Public Employees Retirement System under Article I, section 21, of the**  
24 **Oregon Constitution, or Article I, section 10, clause 1, of the United**  
25 **States Constitution.**

26           **“(2) A person who is adversely affected by this 2019 Act, or who will**  
27 **be adversely affected by this 2019 Act, may institute a proceeding for**  
28 **review by filing with the Supreme Court a petition that meets the**  
29 **following requirements:**

30           **“(a) The petition must be filed within 60 days after the effective**

1 **date of this 2019 Act.**

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

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

4 **“(B) A statement and supporting affidavit showing how the**  
5 **petitioner is, or will be, adversely affected.**

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

9 **“(4) Proceedings for review under this section shall be given priority**  
10 **over all other matters before the Supreme Court.**

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

14 **“(6)(a) The Supreme Court shall allow members of the Legislative**  
15 **Assembly to intervene in any proceeding relating to this 2019 Act. Af-**  
16 **ter a member intervenes in a proceeding relating to this 2019 Act, the**  
17 **member has standing to participate in the proceeding even if the**  
18 **member ceases to be a member of the Legislative Assembly.**

19 **“(b) A member of the Senate or the House of Representatives who**  
20 **intervenes in a proceeding under this subsection may not use public**  
21 **funds to pay legal expenses incurred in intervening in or participating**  
22 **in the proceeding.**

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

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

28

29

**“OPERATIVE DATES**

30

1       **“SECTION 66. (1) Sections 1 to 30 of this 2019 Act and the amend-**  
2 **ments to ORS 237.650, 238.008, 238.410, 238.415, 238.420, 238.445, 238.447,**  
3 **238.465, 238.600, 238.645, 238.650, 238.660, 238.661, 238.665, 238.675, 238.700,**  
4 **238.705, 243.800 and 341.551 by sections 31 to 49 of this 2019 Act become**  
5 **operative on July 1, 2020.**

6       **“(2) The Public Employees Retirement Board may take any action**  
7 **before the operative date specified in subsection (1) of this section to**  
8 **enable the board to exercise, on and after the operative date specified**  
9 **in subsection (1) of this section, all the duties, functions and powers**  
10 **conferred on the board by sections 1 to 30 of this 2019 Act and the**  
11 **amendments to ORS 237.650, 238.008, 238.410, 238.415, 238.420, 238.445,**  
12 **238.447, 238.465, 238.600, 238.645, 238.650, 238.660, 238.661, 238.665, 238.675,**  
13 **238.700, 238.705, 243.800 and 341.551 by sections 31 to 49 of this 2019 Act.**

14       **“SECTION 67. The Public Employees Retirement Board shall allow**  
15 **members of the Tier 4 Plan to make an election under section 15 of**  
16 **this 2019 Act that becomes effective on January 1, 2021.**

17       **“SECTION 68. (1) The amendments to ORS 238.082, 238.092, 238A.245,**  
18 **243.163 and 399.075 by sections 51 to 55 of this 2019 Act and the repeal**  
19 **of sections 2 and 3, chapter 499, Oregon Laws 2007, sections 2 and 3,**  
20 **chapter 475, Oregon Laws 2015, and sections 2, 3 and 4, chapter 6,**  
21 **Oregon Laws 2016, by section 50 of this 2019 Act:**

22       **“(a) Become operative on September 1, 2019; and**

23       **“(b) Apply only to retired members of the Public Employees Re-**  
24 **tirement System who perform services for a public employer on or**  
25 **after September 1, 2019.**

26       **“(2) The Public Employees Retirement Board may take any action**  
27 **before the operative date specified in subsection (1) of this section to**  
28 **enable the board to exercise, on and after the operative date specified**  
29 **in subsection (1) of this section, all the duties, functions and powers**  
30 **conferred on the board by the amendments to ORS 238.082, 238.092,**

1 238A.245, 243.163 and 399.075 by sections 51 to 55 of this 2019 Act and the  
2 repeal of sections 2 and 3, chapter 499, Oregon Laws 2007, sections 2  
3 and 3, chapter 475, Oregon Laws 2015, and sections 2, 3 and 4, chapter  
4 6, Oregon Laws 2016, by section 50 of this 2019 Act.

5 **“SECTION 69. (1) The amendments to ORS 238A.400 and 238A.410**  
6 **by sections 61 and 62 of this 2019 Act become operative on July 1, 2020.**

7 **“(2) The Public Employees Retirement Board may take any action**  
8 **before the operative date specified in subsection (1) of this section to**  
9 **enable the board to exercise, on and after the operative date specified**  
10 **in subsection (1) of this section, all the duties, functions and powers**  
11 **conferred on the board by the amendments to ORS 238A.400 and**  
12 **238A.410 by sections 61 and 62 of this 2019 Act.**

13

14

**“CAPTIONS**

15

16 **“SECTION 70. The unit and section captions used in this 2019 Act**  
17 **are provided only for the convenience of the reader and do not become**  
18 **part of the statutory law of this state or express any legislative intent**  
19 **in the enactment of this 2019 Act.**

20

21

**“EMERGENCY CLAUSE**

22

23 **“SECTION 71. This 2019 Act being necessary for the immediate**  
24 **preservation of the public peace, health and safety, an emergency is**  
25 **declared to exist, and this 2019 Act takes effect on its passage.”.**

26