

Enrolled Senate Bill 54

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Kate Brown for Higher Education Coordinating Commission)

CHAPTER

AN ACT

Relating to public universities; amending ORS 291.035, 350.075, 350.090, 350.095, 350.278, 352.025, 352.027, 352.029, 352.033, 352.039, 352.061, 352.076, 352.084, 352.087, 352.089, 352.096, 352.113, 352.118, 352.124, 352.129, 352.135, 352.138, 352.141, 352.146, 352.226, 352.388, 352.402, 352.408, 352.415, 352.442 and 352.450.

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

SECTION 1. ORS 350.075, as amended by section 5, chapter 30, Oregon Laws 2016, and section 55, chapter 117, Oregon Laws 2016, is amended to read:

350.075. (1) As used in this section, “student access programs” means scholarship, loan, grant and access programs described in ORS chapter 348.

(2) The Higher Education Coordinating Commission shall be guided by the legislative findings in ORS 341.009, 350.001 and 350.005 and the goals and mission of post-secondary education set forth in ORS 350.009 and 350.014.

(3) The Higher Education Coordinating Commission shall:

(a) Develop state goals for the state post-secondary education system, including community colleges and public universities listed in ORS 352.002, and for student access programs.

(b) Determine strategic investments in the state’s community colleges, public universities and student access programs necessary to achieve state post-secondary education goals.

(c) Coordinate the post-secondary elements of data collection and structure, with the advice and recommendation of the state’s independent institutions, community colleges and public universities, as appropriate, in order to construct a state longitudinal data system.

(d) Adopt a strategic plan for achieving state post-secondary education goals, taking into consideration the contributions of this state’s independent institutions, philanthropic organizations and other organizations dedicated to helping Oregonians reach state goals. State post-secondary education goals as described in this section should include, but need not be limited to:

(A) Increasing the educational attainment of the population;

(B) Increasing this state’s global economic competitiveness and the quality of life of its residents;

(C) Ensuring affordable access for qualified Oregon students at each college or public university;

(D) Removing barriers to on-time completion; and

(E) Tracking progress toward meeting the state’s post-secondary education goals established in the strategic plan described in this paragraph.

(e)(A) Each biennium, after receiving funding requests from the state's community colleges and public universities as authorized by law, recommend to the Governor a consolidated higher education agency request budget aligned with the strategic plan described in paragraph (d) of this subsection, including appropriations for:

(i) Student access programs;

(ii) Public universities listed in ORS 352.002, including but not limited to education and general operations, statewide public services and state-funded debt service;

(iii) Community colleges, including but not limited to education and general operations and state-funded debt service;

(iv) New facilities or programs;

(v) Capital improvements and deferred maintenance; *[and]*

(vi) Special initiatives and investments; **and**

(vii) Any other program, duty or function a public university listed in ORS 352.002 is authorized to undertake.

(B) In the development of the consolidated higher education agency request budget:

(i) Determine the costs necessary to provide quality post-secondary education;

(ii) Solicit input from educators, education policy experts, appropriate legislative committees, students and other persons interested in the development of the funding model; and

(iii) Solicit public input regarding educational priorities.

(f) Adopt rules governing the distribution of appropriations from the Legislative Assembly to community colleges, public universities listed in ORS 352.002 and student access programs. These rules must be based on allocation formulas developed in consultation with the state's community colleges and public universities, as appropriate.

(g) Approve or disapprove any significant change to the academic program of a community college or a public university listed in ORS 352.002. In reaching a decision under this paragraph, the commission shall consider the recommendation from the community college or public university seeking to make the change to an academic program that is issued pursuant to the obligation of the governing board of a community college or public university to review and approve academic programs. The commission shall ensure that approved programs:

(A) Are consistent with the mission statement of the community college or public university;

(B) Do not unnecessarily duplicate academic programs offered by Oregon's other community colleges or public universities;

(C) Are not located in a geographic area that will cause undue hardship to Oregon's other community colleges or public universities; and

(D) Are allocated among Oregon's community colleges and public universities to maximize the achievement of statewide needs and requirements.

(h) For public universities listed in ORS 352.002:

(A) Approve the mission statement adopted by a governing board of a public university.

(B) Review and determine whether a proposed annual increase of resident undergraduate enrollment fees of greater than five percent is appropriate.

(C) Advise the Governor and the Legislative Assembly on issues of university governance.

(D) Approve and authorize degrees.

(E) Perform the evaluation and certification required by ORS 350.095.

(i) Authorize degrees to be offered by independent post-secondary institutions in this state under ORS 348.594 to 348.615.

(j) Oversee the licensing of career schools under ORS 345.010 to 345.450.

(k) Have the authority to enter into and administer interstate agreements regarding the provision of post-secondary distance education. The participation by an educational institution that is not based in this state in distance learning courses or programs that are part of an interstate agreement entered into and administered under this paragraph does not constitute operating in this state for purposes of ORS 348.594 to 348.615. The commission, by rule, may impose a fee on any educational institution that seeks to operate under or participate in such interstate agreements. The

fee amount shall be established to recover designated expenses incurred by the commission in participating in such agreements.

(L) Coordinate and collaborate with the Chief Education Office as provided by section 1, chapter 519, Oregon Laws 2011.

(4)(a) The Higher Education Coordinating Commission shall implement a process to resolve student complaints against any school operating in this state. As part of the process implemented under this subsection, the commission may:

- (A) Receive student complaints from students regarding a school;
- (B) Specify the type of information that must be included in a student complaint;
- (C) Investigate any student complaint filed against a school;
- (D) Establish a process to review and resolve student complaints against a school, including but not limited to reviewing school records, holding administrative hearings and issuing final orders;
- (E) Assess a fee to cover the costs of any proceeding brought under this subsection, including but not limited to the costs of an investigation or administrative hearing;
- (F) Require a school to make full or partial restitution to a student or to cease an act or practice that is challenged in a student complaint;
- (G) Adopt rules to implement the provisions of this subsection; and
- (H) Enter into agreements to implement the provisions of this subsection.

(b) Any hearing held under this subsection is subject to the provisions of ORS chapter 183.

(c) As used in this subsection:

(A) "School" means a school that meets the requirements of ORS 348.597 (2)(a); and

(B) "Student" means a person who is enrolled or accepted for enrollment at a school for the purpose of obtaining a degree, certificate or other recognized educational credential offered by that school.

(5) In addition to the duties described in subsections (2) to (4) of this section, the Higher Education Coordinating Commission shall advise the Legislative Assembly, the Governor, community colleges, public universities and other state boards and commissions on policies in order to:

- (a) Ensure or improve access to higher education by diverse and underserved populations.
- (b) Encourage student success and completion initiatives.
- (c) Improve the coordination of the provision of educational services, including:

(A) Transfers and coenrollment throughout the higher education system;

(B) Accelerated college credit programs for high school students;

(C) Applied baccalaureate and other transfer degrees;

(D) Programs and grants that span multiple institutions; and

(E) Reciprocity agreements with other states.

(d) In coordination with the State Board of Education, enhance the use and quality of dual credit, career and technical pathways and efforts to create a culture of college attendance in this state.

(e) In coordination with the State Workforce Investment Board, local workforce investment boards, the Oregon Health and Science University and independent institutions, ensure that the state's colleges and universities offer programs in high-demand occupations that meet Oregon's workforce needs.

(f) Improve economies of scale by encouraging and facilitating the use of the shared services among post-secondary institutions in this state.

(6) The Higher Education Coordinating Commission, in a manner consistent with ORS chapter 183, may adopt administrative rules.

(7) With the exception of the rulemaking authority granted in subsection (6) of this section, the Higher Education Coordinating Commission may delegate any of its powers, duties or functions to a committee of the commission or to the executive director of the commission.

[(8) The Higher Education Coordinating Commission may establish technical or advisory committees to assist the commission in exercising its powers, duties and functions.]

[9] (8) The Higher Education Coordinating Commission may exercise only powers, duties and functions expressly granted by the Legislative Assembly. Except as otherwise expressly provided by law, all other authorities reside at the institutional level with the respective boards of the post-secondary institutions.

SECTION 2. ORS 350.075, as amended by section 61, chapter 774, Oregon Laws 2015, section 6, chapter 30, Oregon Laws 2016, and section 56, chapter 117, Oregon Laws 2016, is amended to read:

350.075. (1) As used in this section, “student access programs” means scholarship, loan, grant and access programs described in ORS chapter 348.

(2) The Higher Education Coordinating Commission shall be guided by the legislative findings in ORS 341.009, 350.001 and 350.005 and the goals and mission of post-secondary education set forth in ORS 350.009 and 350.014.

(3) The Higher Education Coordinating Commission shall:

(a) Develop state goals for the state post-secondary education system, including community colleges and public universities listed in ORS 352.002, and for student access programs.

(b) Determine strategic investments in the state’s community colleges, public universities and student access programs necessary to achieve state post-secondary education goals.

(c) Coordinate the post-secondary elements of data collection and structure, with the advice and recommendation of the state’s independent institutions, community colleges and public universities, as appropriate, in order to construct a state longitudinal data system.

(d) Adopt a strategic plan for achieving state post-secondary education goals, taking into consideration the contributions of this state’s independent institutions, philanthropic organizations and other organizations dedicated to helping Oregonians reach state goals. State post-secondary education goals as described in this section should include, but need not be limited to:

(A) Increasing the educational attainment of the population;

(B) Increasing this state’s global economic competitiveness and the quality of life of its residents;

(C) Ensuring affordable access for qualified Oregon students at each college or public university;

(D) Removing barriers to on-time completion; and

(E) Tracking progress toward meeting the state’s post-secondary education goals established in the strategic plan described in this paragraph.

(e)(A) Each biennium, after receiving funding requests from the state’s community colleges and public universities as authorized by law, recommend to the Governor a consolidated higher education agency request budget aligned with the strategic plan described in paragraph (d) of this subsection, including appropriations for:

(i) Student access programs;

(ii) Public universities listed in ORS 352.002, including but not limited to education and general operations, statewide public services and state-funded debt service;

(iii) Community colleges, including but not limited to education and general operations and state-funded debt service;

(iv) New facilities or programs;

(v) Capital improvements and deferred maintenance; *[and]*

(vi) Special initiatives and investments; **and**

(vii) Any other program, duty or function a public university listed in ORS 352.002 is authorized to undertake.

(B) In the development of the consolidated higher education agency request budget:

(i) Determine the costs necessary to provide quality post-secondary education;

(ii) Solicit input from educators, education policy experts, appropriate legislative committees, students and other persons interested in the development of the funding model; and

(iii) Solicit public input regarding educational priorities.

(f) Adopt rules governing the distribution of appropriations from the Legislative Assembly to community colleges, public universities listed in ORS 352.002 and student access programs. These

rules must be based on allocation formulas developed in consultation with the state's community colleges and public universities, as appropriate.

(g) Approve or disapprove any significant change to the academic program of a community college or a public university listed in ORS 352.002. In reaching a decision under this paragraph, the commission shall consider the recommendation from the community college or public university seeking to make the change to an academic program that is issued pursuant to the obligation of the governing board of a community college or public university to review and approve academic programs. The commission shall ensure that approved programs:

(A) Are consistent with the mission statement of the community college or public university;

(B) Do not unnecessarily duplicate academic programs offered by Oregon's other community colleges or public universities;

(C) Are not located in a geographic area that will cause undue hardship to Oregon's other community colleges or public universities; and

(D) Are allocated among Oregon's community colleges and public universities to maximize the achievement of statewide needs and requirements.

(h) For public universities listed in ORS 352.002:

(A) Approve the mission statement adopted by a governing board of a public university.

(B) Review and determine whether a proposed annual increase of resident undergraduate enrollment fees of greater than five percent is appropriate.

(C) Advise the Governor and the Legislative Assembly on issues of university governance.

(D) Approve and authorize degrees.

(E) Perform the evaluation and certification required by ORS 350.095.

(i) Authorize degrees to be offered by independent post-secondary institutions in this state under ORS 348.594 to 348.615.

(j) Oversee the licensing of career schools under ORS 345.010 to 345.450.

(k) Have the authority to enter into and administer interstate agreements regarding the provision of post-secondary distance education. The participation by an educational institution that is not based in this state in distance learning courses or programs that are part of an interstate agreement entered into and administered under this paragraph does not constitute operating in this state for purposes of ORS 348.594 to 348.615. The commission, by rule, may impose a fee on any educational institution that seeks to operate under or participate in such interstate agreements. The fee amount shall be established to recover designated expenses incurred by the commission in participating in such agreements.

(4)(a) The Higher Education Coordinating Commission shall implement a process to resolve student complaints against any school operating in this state. As part of the process implemented under this subsection, the commission may:

(A) Receive student complaints from students regarding a school;

(B) Specify the type of information that must be included in a student complaint;

(C) Investigate any student complaint filed against a school;

(D) Establish a process to review and resolve student complaints against a school, including but not limited to reviewing school records, holding administrative hearings and issuing final orders;

(E) Assess a fee to cover the costs of any proceeding brought under this subsection, including but not limited to the costs of an investigation or administrative hearing;

(F) Require a school to make full or partial restitution to a student or to cease an act or practice that is challenged in a student complaint;

(G) Adopt rules to implement the provisions of this subsection; and

(H) Enter into agreements to implement the provisions of this subsection.

(b) Any hearing held under this subsection is subject to the provisions of ORS chapter 183.

(c) As used in this subsection:

(A) "School" means a school that meets the requirements of ORS 348.597 (2)(a); and

(B) “Student” means a person who is enrolled or accepted for enrollment at a school for the purpose of obtaining a degree, certificate or other recognized educational credential offered by that school.

(5) In addition to the duties described in subsections (2) to (4) of this section, the Higher Education Coordinating Commission shall advise the Legislative Assembly, the Governor, community colleges, public universities and other state boards and commissions on policies in order to:

(a) Ensure or improve access to higher education by diverse and underserved populations.

(b) Encourage student success and completion initiatives.

(c) Improve the coordination of the provision of educational services, including:

(A) Transfers and coenrollment throughout the higher education system;

(B) Accelerated college credit programs for high school students;

(C) Applied baccalaureate and other transfer degrees;

(D) Programs and grants that span multiple institutions; and

(E) Reciprocity agreements with other states.

(d) In coordination with the State Board of Education, enhance the use and quality of dual credit, career and technical pathways and efforts to create a culture of college attendance in this state.

(e) In coordination with the State Workforce Investment Board, local workforce investment boards, the Oregon Health and Science University and independent institutions, ensure that the state’s colleges and universities offer programs in high-demand occupations that meet Oregon’s workforce needs.

(f) Improve economies of scale by encouraging and facilitating the use of the shared services among post-secondary institutions in this state.

(6) The Higher Education Coordinating Commission, in a manner consistent with ORS chapter 183, may adopt administrative rules.

(7) With the exception of the rulemaking authority granted in subsection (6) of this section, the Higher Education Coordinating Commission may delegate any of its powers, duties or functions to a committee of the commission or to the executive director of the commission.

[(8) The Higher Education Coordinating Commission may establish technical or advisory committees to assist the commission in exercising its powers, duties and functions.]

[(9)] (8) The Higher Education Coordinating Commission may exercise only powers, duties and functions expressly granted by the Legislative Assembly. Except as otherwise expressly provided by law, all other authorities reside at the institutional level with the respective boards of the post-secondary institutions.

SECTION 2a. If House Bill 2314 becomes law, section 1 of this 2017 Act (amending ORS 350.075) is repealed and ORS 350.075, as amended by section 5, chapter 30, Oregon Laws 2016, section 55, chapter 117, Oregon Laws 2016, and section 7, chapter 66, Oregon Laws 2017 (Enrolled House Bill 2314), is amended to read:

350.075. (1) As used in this section, “student access programs” means scholarship, loan, grant and access programs described in ORS chapter 348.

(2) The Higher Education Coordinating Commission shall be guided by the legislative findings in ORS 341.009, 350.001 and 350.005 and the goals and mission of post-secondary education set forth in ORS 350.009 and 350.014.

(3) The Higher Education Coordinating Commission shall:

(a) Develop state goals for the state post-secondary education system, including community colleges and public universities listed in ORS 352.002, and for student access programs.

(b) Determine strategic investments in the state’s community colleges, public universities and student access programs necessary to achieve state post-secondary education goals.

(c) Coordinate the post-secondary elements of data collection and structure, with the advice and recommendation of the state’s independent institutions, community colleges and public universities, as appropriate, in order to construct a state longitudinal data system.

(d) Adopt a strategic plan for achieving state post-secondary education goals, taking into consideration the contributions of this state's independent institutions, philanthropic organizations and other organizations dedicated to helping Oregonians reach state goals. State post-secondary education goals as described in this section should include, but need not be limited to:

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(e)(A) Each biennium, after receiving funding requests from the state's community colleges and public universities as authorized by law, recommend to the Governor a consolidated higher education agency request budget aligned with the strategic plan described in paragraph (d) of this subsection, including appropriations for:

(i) Student access programs;

(ii) Public universities listed in ORS 352.002, including but not limited to education and general operations, statewide public services and state-funded debt service;

(iii) Community colleges, including but not limited to education and general operations and state-funded debt service;

(iv) New facilities or programs;

(v) Capital improvements and deferred maintenance; [and]

(vi) Special initiatives and investments; and

(vii) Any other program, duty or function a public university listed in ORS 352.002 is authorized to undertake.

(B) In the development of the consolidated higher education agency request budget:

(i) Determine the costs necessary to provide quality post-secondary education;

(ii) Solicit input from educators, education policy experts, appropriate legislative committees, students and other persons interested in the development of the funding model; and

(iii) Solicit public input regarding educational priorities.

(f) Adopt rules governing the distribution of appropriations from the Legislative Assembly to community colleges, public universities listed in ORS 352.002 and student access programs. These rules must be based on allocation formulas developed in consultation with the state's community colleges and public universities, as appropriate.

(g) Approve or disapprove any significant change to the academic program of a community college or a public university listed in ORS 352.002. In reaching a decision under this paragraph, the commission shall consider the recommendation from the community college or public university seeking to make the change to an academic program that is issued pursuant to the obligation of the governing board of a community college or public university to review and approve academic programs. The commission shall ensure that approved programs:

(A) Are consistent with the mission statement of the community college or public university;

(B) Do not unnecessarily duplicate academic programs offered by Oregon's other community colleges or public universities;

(C) Are not located in a geographic area that will cause undue hardship to Oregon's other community colleges or public universities; and

(D) Are allocated among Oregon's community colleges and public universities to maximize the achievement of statewide needs and requirements.

(h) For public universities listed in ORS 352.002:

(A) Approve the mission statement adopted by a governing board of a public university.

(B) Review and determine whether a proposed annual increase of resident undergraduate enrollment fees of greater than five percent is appropriate.

(C) Advise the Governor and the Legislative Assembly on issues of university governance.

- (D) Approve and authorize degrees.
- (E) Perform the evaluation and certification required by ORS 350.095.
- (i) Authorize degrees to be offered by independent post-secondary institutions in this state under ORS 348.594 to 348.615.
- (j) Oversee the licensing of career schools under ORS 345.010 to 345.450.
- (k) Have the authority to enter into and administer interstate agreements regarding the provision of post-secondary distance education. The participation by an educational institution that is not based in this state in distance learning courses or programs that are part of an interstate agreement entered into and administered under this paragraph does not constitute operating in this state for purposes of ORS 348.594 to 348.615. The commission, by rule, may impose a fee on any educational institution that seeks to operate under or participate in such interstate agreements. The fee amount shall be established to recover designated expenses incurred by the commission in participating in such agreements.
- (L) Coordinate and collaborate with the Chief Education Office as provided by section 1, chapter 519, Oregon Laws 2011.
- (4)(a) The Higher Education Coordinating Commission shall implement a process to resolve student complaints against any school operating in this state. As part of the process implemented under this subsection, the commission may:
 - (A) Receive student complaints from students regarding a school;
 - (B) Specify the type of information that must be included in a student complaint;
 - (C) Investigate any student complaint filed against a school;
 - (D) Establish a process to review and resolve student complaints against a school, including but not limited to reviewing school records, holding administrative hearings and issuing final orders;
 - (E) Assess a fee to cover the costs of any proceeding brought under this subsection, including but not limited to the costs of an investigation or administrative hearing;
 - (F) Require a school to make full or partial restitution to a student or to cease an act or practice that is challenged in a student complaint;
 - (G) Adopt rules to implement the provisions of this subsection; and
 - (H) Enter into agreements to implement the provisions of this subsection.
- (b) Any hearing held under this subsection is subject to the provisions of ORS chapter 183.
- (c) As used in this subsection:
 - (A) "School" means a school that meets the requirements of ORS 348.597 (2)(a); and
 - (B) "Student" means a person who is enrolled or accepted for enrollment at a school for the purpose of obtaining a degree, certificate or other recognized educational credential offered by that school.
- (5) In addition to the duties described in subsections (2) to (4) of this section, the Higher Education Coordinating Commission shall advise the Legislative Assembly, the Governor, community colleges, public universities and other state boards and commissions on policies in order to:
 - (a) Ensure or improve access to higher education by diverse and underserved populations.
 - (b) Encourage student success and completion initiatives.
 - (c) Improve the coordination of the provision of educational services, including:
 - (A) Transfers and coenrollment throughout the higher education system;
 - (B) Accelerated college credit programs for high school students;
 - (C) Applied baccalaureate and other transfer degrees;
 - (D) Programs and grants that span multiple institutions; and
 - (E) Reciprocity agreements with other states.
 - (d) In coordination with the State Board of Education, enhance the use and quality of dual credit, career and technical pathways and efforts to create a culture of college attendance in this state.
 - (e) In coordination with the State Workforce Investment Board, local workforce investment boards, the Oregon Health and Science University and independent institutions, ensure that the

state's colleges and universities offer programs in high-demand occupations that meet Oregon's workforce needs.

(f) Improve economies of scale by encouraging and facilitating the use of the shared services among post-secondary institutions in this state.

(6) The Higher Education Coordinating Commission, in a manner consistent with ORS chapter 183, may adopt administrative rules.

(7) With the exception of the rulemaking authority granted in subsection (6) of this section, the Higher Education Coordinating Commission may delegate any of its powers, duties or functions to a committee of the commission or to the executive director of the commission.

(8) The Higher Education Coordinating Commission may[:],

[(a) Establish technical or advisory committees to assist the commission in exercising its powers, duties and functions; or]

[(b) subject to the Public Contracting Code, enter into contracts and agreements, including grant agreements, with public and private entities for those higher education and workforce development activities that are consistent with ORS 350.001 and 350.005, with the policies set forth in ORS chapters 341 and 348 and with statutory policies related to career schools and public universities.

(9) The Higher Education Coordinating Commission may exercise only powers, duties and functions expressly granted by the Legislative Assembly. Except as otherwise expressly provided by law, all other authorities reside at the institutional level with the respective boards of the post-secondary institutions.

SECTION 2b. If House Bill 2314 becomes law, section 2 of this 2017 Act (amending ORS 350.075) is repealed and ORS 350.075, as amended by section 61, chapter 774, Oregon Laws 2015, section 6, chapter 30, Oregon Laws 2016, section 56, chapter 117, Oregon Laws 2016, and section 8, chapter 66, Oregon Laws 2017 (Enrolled House Bill 2314), is amended to read:

350.075. (1) As used in this section, "student access programs" means scholarship, loan, grant and access programs described in ORS chapter 348.

(2) The Higher Education Coordinating Commission shall be guided by the legislative findings in ORS 341.009, 350.001 and 350.005 and the goals and mission of post-secondary education set forth in ORS 350.009 and 350.014.

(3) The Higher Education Coordinating Commission shall:

(a) Develop state goals for the state post-secondary education system, including community colleges and public universities listed in ORS 352.002, and for student access programs.

(b) Determine strategic investments in the state's community colleges, public universities and student access programs necessary to achieve state post-secondary education goals.

(c) Coordinate the post-secondary elements of data collection and structure, with the advice and recommendation of the state's independent institutions, community colleges and public universities, as appropriate, in order to construct a state longitudinal data system.

(d) Adopt a strategic plan for achieving state post-secondary education goals, taking into consideration the contributions of this state's independent institutions, philanthropic organizations and other organizations dedicated to helping Oregonians reach state goals. State post-secondary education goals as described in this section should include, but need not be limited to:

(A) Increasing the educational attainment of the population;

(B) Increasing this state's global economic competitiveness and the quality of life of its residents;

(C) Ensuring affordable access for qualified Oregon students at each college or public university;

(D) Removing barriers to on-time completion; and

(E) Tracking progress toward meeting the state's post-secondary education goals established in the strategic plan described in this paragraph.

(e)(A) Each biennium, after receiving funding requests from the state's community colleges and public universities as authorized by law, recommend to the Governor a consolidated higher educa-

tion agency request budget aligned with the strategic plan described in paragraph (d) of this subsection, including appropriations for:

- (i) Student access programs;
- (ii) Public universities listed in ORS 352.002, including but not limited to education and general operations, statewide public services and state-funded debt service;
- (iii) Community colleges, including but not limited to education and general operations and state-funded debt service;
- (iv) New facilities or programs;
- (v) Capital improvements and deferred maintenance; *[and]*
- (vi) Special initiatives and investments; **and**
- (vii) Any other program, duty or function a public university listed in ORS 352.002 is authorized to undertake.**

(B) In the development of the consolidated higher education agency request budget:

- (i) Determine the costs necessary to provide quality post-secondary education;
- (ii) Solicit input from educators, education policy experts, appropriate legislative committees, students and other persons interested in the development of the funding model; and
- (iii) Solicit public input regarding educational priorities.

(f) Adopt rules governing the distribution of appropriations from the Legislative Assembly to community colleges, public universities listed in ORS 352.002 and student access programs. These rules must be based on allocation formulas developed in consultation with the state's community colleges and public universities, as appropriate.

(g) Approve or disapprove any significant change to the academic program of a community college or a public university listed in ORS 352.002. In reaching a decision under this paragraph, the commission shall consider the recommendation from the community college or public university seeking to make the change to an academic program that is issued pursuant to the obligation of the governing board of a community college or public university to review and approve academic programs. The commission shall ensure that approved programs:

- (A) Are consistent with the mission statement of the community college or public university;
- (B) Do not unnecessarily duplicate academic programs offered by Oregon's other community colleges or public universities;
- (C) Are not located in a geographic area that will cause undue hardship to Oregon's other community colleges or public universities; and
- (D) Are allocated among Oregon's community colleges and public universities to maximize the achievement of statewide needs and requirements.

(h) For public universities listed in ORS 352.002:

- (A) Approve the mission statement adopted by a governing board of a public university.
- (B) Review and determine whether a proposed annual increase of resident undergraduate enrollment fees of greater than five percent is appropriate.
- (C) Advise the Governor and the Legislative Assembly on issues of university governance.
- (D) Approve and authorize degrees.
- (E) Perform the evaluation and certification required by ORS 350.095.

(i) Authorize degrees to be offered by independent post-secondary institutions in this state under ORS 348.594 to 348.615.

(j) Oversee the licensing of career schools under ORS 345.010 to 345.450.

(k) Have the authority to enter into and administer interstate agreements regarding the provision of post-secondary distance education. The participation by an educational institution that is not based in this state in distance learning courses or programs that are part of an interstate agreement entered into and administered under this paragraph does not constitute operating in this state for purposes of ORS 348.594 to 348.615. The commission, by rule, may impose a fee on any educational institution that seeks to operate under or participate in such interstate agreements. The fee amount shall be established to recover designated expenses incurred by the commission in participating in such agreements.

(4)(a) The Higher Education Coordinating Commission shall implement a process to resolve student complaints against any school operating in this state. As part of the process implemented under this subsection, the commission may:

- (A) Receive student complaints from students regarding a school;
 - (B) Specify the type of information that must be included in a student complaint;
 - (C) Investigate any student complaint filed against a school;
 - (D) Establish a process to review and resolve student complaints against a school, including but not limited to reviewing school records, holding administrative hearings and issuing final orders;
 - (E) Assess a fee to cover the costs of any proceeding brought under this subsection, including but not limited to the costs of an investigation or administrative hearing;
 - (F) Require a school to make full or partial restitution to a student or to cease an act or practice that is challenged in a student complaint;
 - (G) Adopt rules to implement the provisions of this subsection; and
 - (H) Enter into agreements to implement the provisions of this subsection.
- (b) Any hearing held under this subsection is subject to the provisions of ORS chapter 183.
- (c) As used in this subsection:
- (A) "School" means a school that meets the requirements of ORS 348.597 (2)(a); and
 - (B) "Student" means a person who is enrolled or accepted for enrollment at a school for the purpose of obtaining a degree, certificate or other recognized educational credential offered by that school.

(5) In addition to the duties described in subsections (2) to (4) of this section, the Higher Education Coordinating Commission shall advise the Legislative Assembly, the Governor, community colleges, public universities and other state boards and commissions on policies in order to:

- (a) Ensure or improve access to higher education by diverse and underserved populations.
- (b) Encourage student success and completion initiatives.
- (c) Improve the coordination of the provision of educational services, including:
 - (A) Transfers and coenrollment throughout the higher education system;
 - (B) Accelerated college credit programs for high school students;
 - (C) Applied baccalaureate and other transfer degrees;
 - (D) Programs and grants that span multiple institutions; and
 - (E) Reciprocity agreements with other states.
- (d) In coordination with the State Board of Education, enhance the use and quality of dual credit, career and technical pathways and efforts to create a culture of college attendance in this state.
- (e) In coordination with the State Workforce Investment Board, local workforce investment boards, the Oregon Health and Science University and independent institutions, ensure that the state's colleges and universities offer programs in high-demand occupations that meet Oregon's workforce needs.

(f) Improve economies of scale by encouraging and facilitating the use of the shared services among post-secondary institutions in this state.

(6) The Higher Education Coordinating Commission, in a manner consistent with ORS chapter 183, may adopt administrative rules.

(7) With the exception of the rulemaking authority granted in subsection (6) of this section, the Higher Education Coordinating Commission may delegate any of its powers, duties or functions to a committee of the commission or to the executive director of the commission.

(8) The Higher Education Coordinating Commission may[.],

[(a) Establish technical or advisory committees to assist the commission in exercising its powers, duties and functions; or]

[(b)] subject to the Public Contracting Code, enter into contracts and agreements, including grant agreements, with public and private entities for those higher education and workforce development activities that are consistent with ORS 350.001 and 350.005, with the policies set forth in

ORS chapters 341 and 348 and with statutory policies related to career schools and public universities.

(9) The Higher Education Coordinating Commission may exercise only powers, duties and functions expressly granted by the Legislative Assembly. Except as otherwise expressly provided by law, all other authorities reside at the institutional level with the respective boards of the post-secondary institutions.

SECTION 3. ORS 350.095 is amended to read:

350.095. (1) The Higher Education Coordinating Commission is authorized to:

(a) Request, as part of the funding request under ORS 350.090, appropriations for budgetary items, including but not limited to education and general operations, statewide public services, state funded debt service, capital improvements, deferred maintenance, special initiatives and investments **or any other purpose listed under ORS 350.075 (3)(e);** and

(b) Allocate moneys, from funds appropriated to the commission and other available moneys, to public universities listed in ORS 352.002.

(2) The commission shall certify to the Legislative Assembly, in any funding request pursuant to subsection (1)(a) of this section for state bonds under Article XI-F(1) of the Oregon Constitution for the benefit of a public university listed in ORS 352.002, its evaluation of the revenue sufficiency, as defined in ORS 286A.830, of the public university that will receive the proceeds of any Article XI-F(1) bonds approved by the Legislative Assembly.

SECTION 4. ORS 350.090, as amended by section 57, chapter 117, Oregon Laws 2016, is amended to read:

350.090. [(1)(a) *On or before April 1 of each even-numbered year, each public university listed in ORS 352.002 must submit to an office designated by the Higher Education Coordinating Commission as being responsible for university coordination a funding request applicable to the biennium beginning on July 1 of the following year; and*]

[(b) *On or before May 1 of each even-numbered year, the office designated under paragraph (a) of this subsection shall consolidate the funding requests from public universities listed in ORS 352.002 and submit the consolidated funding requests to the Higher Education Coordinating Commission.*]

[(2)] (1) On or before September 1 of each even-numbered year, the Higher Education Coordinating Commission shall submit a **consolidated** funding request to the Governor on behalf of all the public universities listed in ORS 352.002.

[(3)] (2) The Governor's budget may include the Higher Education Coordinating Commission's funding request for public universities listed in ORS 352.002. Any funding request approved by the Legislative Assembly must specify that the moneys be appropriated to the Higher Education Coordinating Commission for allocation to the public universities listed in ORS 352.002.

(3) The Higher Education Coordinating Commission may adopt rules necessary for the administration of this section.

SECTION 5. ORS 352.061 is amended to read:

352.061. (1) On an annual basis, the Higher Education Coordinating Commission shall submit to the Legislative Assembly an evaluation of [*each university with a governing board.*] **public universities listed in ORS 352.002. Each public university must be evaluated in the manner required by this section once every two years. As part of the evaluation submitted to the Legislative Assembly,** the commission may make recommendations [*to the Legislative Assembly*] regarding the ability of the university to meet academic goals and fulfill its fiduciary responsibilities.

(2) The evaluation must include:

(a) A report on the university's achievement of outcomes, measures of progress, goals and targets;

(b) An assessment of the university's progress toward achieving the mission of all education beyond high school as described in ORS 350.014; and

(c) An assessment as to how well the establishment of a governing board at the university comports with the findings set forth in ORS 352.025.

(3) The Higher Education Coordinating Commission may adopt rules necessary for the administration of this section.

SECTION 6. ORS 350.278 is amended to read:

350.278. (1) A public university listed in ORS 352.002 may not disclose the Social Security number of a student who is attending the public university.

(2) Subsection (1) of this section does not apply if the public university discloses the Social Security number:

(a) At the request of a law enforcement agency or an agency providing support enforcement services under ORS 25.080;

(b) After obtaining written permission for the disclosure from the student to whom the number refers;

(c) In the payment of wages or benefits;

(d) In the payment or collection of taxes or of a debt owed by the student to whom the number refers; *[or]*

(e) For purposes of statistical analysis[.]; **or**

(f) As otherwise required by law.

SECTION 7. ORS 352.025 is amended to read:

352.025. (1) The Legislative Assembly finds that the State of Oregon will benefit from having public universities with governing boards that:

(a) Provide transparency, public accountability and support for the university.

(b) Are close to and closely focused on the individual university.

[(c) Do not negatively impact public universities that do not have governing boards.]

[(d)] (c) Lead to greater access and affordability for Oregon residents and do not disadvantage Oregon students relative to out-of-state students.

[(e)] (d) Act in the best interests of both the university and the State of Oregon as a whole.

[(f)] (e) Promote the academic success of students in support of the mission of all education beyond high school as described in ORS 350.014.

(2) The Legislative Assembly also finds that:

(a) Even with universities with governing boards, there are economy-of-scale benefits to having a coordinated university system.

(b) Even with universities with governing boards, shared services may continue to be shared among universities.

(c) Legal title to all real property, whether acquired before or after the creation of a governing board, through state funding, revenue bonds or philanthropy, shall be taken and held in the name of the State of Oregon, acting by and through the governing board.

(d) The Legislative Assembly has a responsibility to monitor the success of governing boards at fulfilling their missions, their compacts and the principles stated in this section.

SECTION 8. ORS 352.027 is amended to read:

352.027. Chapter 768, Oregon Laws 2013, is intended to preserve the autonomy of the **public** universities listed in ORS 352.002 *[whether they are governed by a university governing board or a university consortium board]*.

SECTION 9. ORS 352.029 is amended to read:

352.029. As used in ORS 352.025 to 352.146 and 352.388 to 352.415:

(1) "Governing board" means a governing board of a public university listed in ORS 352.002 that manages the affairs of the university by exercising and carrying out all of the powers, rights and duties that are expressly conferred upon the governing board by law, or that are implied by law or are incident to such powers, rights and duties.

(2) "State bonds" means "bonds" as defined in ORS 286A.001 that are issued by the State Treasurer.

[(3) "University with a governing board" means a public university listed in ORS 352.002 that has established a governing board.]

SECTION 10. ORS 352.076 is amended to read:

352.076. (1) A governing board for a public university must be formed and maintained as provided in this section.

(2)(a) Except as provided in subsection (3) of this section, the Governor shall appoint all of the 11 to 15 members of the governing board, subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565.

(b) The governing board must include one person who is a student enrolled at the university. The student shall be a voting member of the board.

(c) The governing board must include one person who is a member of the faculty of the university and one person who is a member of the nonfaculty staff of the university. For each appointment made under this paragraph, the Governor may appoint the person as either a voting or nonvoting member of the governing board.

(3) The president of the university shall be an ex officio nonvoting member of the governing board.

(4)(a) Except as provided in paragraph (b) of this subsection, the term of office for each appointed member of the governing board is four years.

(b) The term of office of each student, faculty and nonfaculty staff member of the governing board is two years.

(c) A member of the governing board may not be appointed to serve more than two consecutive full terms.

(d) The Governor may remove any appointed member of the governing board at any time for cause, after notice and public hearing, but may not remove more than three members within a period of four years, unless it is for corrupt conduct in office.

(e) Vacancies shall be filled by appointment by the Governor for the remainder of the unexpired term.

(5) The faculty and nonfaculty staff members of the governing board may not participate in any discussions or action by the board or attend any executive session of the board involving collective bargaining issues that affect faculty or nonfaculty staff at the university.

(6) The governing board shall select one of its members as chairperson and another as vice chairperson for such terms and with duties and powers as the board considers necessary for the performance of the functions of those offices. The governing board shall adopt bylaws concerning how a quorum is constituted and when a quorum is necessary.

(7) The governing board shall meet at least *[once quarterly]* **four times per year**, and may meet at the call of the chairperson or a majority of the voting members of the board.

SECTION 11. ORS 352.084 is amended to read:

352.084. Notwithstanding the term of office specified in ORS 352.076, the *[initial]* term of a member appointed to a governing board by the Governor may be adjusted so that one-half, as nearly as possible, of the members of the board are appointed biennially.

SECTION 12. ORS 352.089, as amended by section 59, chapter 117, Oregon Laws 2016, is amended to read:

352.089. (1) A **public** university **listed in ORS 352.002** *[with a governing board]* shall adopt a mission statement for the university, and shall forward the statement to *[an office designated by]* the Higher Education Coordinating Commission *[as being responsible for university coordination]*.

(2) A **public** university **listed in ORS 352.002** *[with a governing board]* shall submit any significant change in the university's academic programs to *[an office designated by]* the Higher Education Coordinating Commission *[as being responsible for university coordination]*. The *[office]* **commission** shall establish a process for reviewing the **significant** program change *[and submitting it to the Higher Education Coordinating Commission]* for approval. The commission shall establish, by rule, what constitutes a significant change to a university's academic program. The commission shall further ensure that approved programs:

(a) Are consistent with the mission statement of the university;

(b) Do not unnecessarily duplicate academic programs offered by Oregon's other public universities;

(c) Are not located in a geographic area that will cause undue hardship to Oregon's other public universities; and

(d) Are allocated among Oregon's public universities to maximize the achievement of statewide needs and requirements.

[(3)(a) On or before April 1 of each even-numbered year, each university listed in ORS 352.002 must submit to an office designated by the Higher Education Coordinating Commission as being responsible for university coordination a funding request applicable to the biennium beginning on July 1 of the following year. On or before May 1 of each even-numbered year, the office shall consolidate the funding requests from public universities listed in ORS 350.090 and submit the consolidated funding requests to the commission.]

[(b)] **(3)(a)** Pursuant to ORS 350.090, **on or before September 1 of each even-numbered year**, the Higher Education Coordinating Commission shall submit a **consolidated** funding request to the Governor on behalf of all public universities listed in ORS 352.002.

[(c)] **(b)** The Governor's budget may include funding requests from public universities[, *including universities with governing boards*].

(4) As part of a funding request submitted under subsection (3) of this section, a **public** university **listed in ORS 352.002** [*with a governing board*] may request, and appropriations may include **but are not limited to**, funding for education and general operations, statewide public services, state-funded debt service, capital improvements, deferred maintenance, special initiatives and investments **or any other purpose authorized by ORS 350.075 (3)(e)**. Any moneys appropriated to pay debt service for state bonds must be held by the State Treasurer pursuant to an agreement entered into by the State Treasurer and a **public** university [*with a governing board*] under ORS 352.135 (2).

(5) A public university listed in ORS 352.002 that wishes to request the issuance of state bonds, including a **public** university [*with a governing board*] that elects to remain eligible to receive proceeds of state bonds under ORS 352.402, must make a request to this effect to [*an office designated by*] the Higher Education Coordinating Commission [*as being responsible for university coordination*]. The [*office*] **commission** shall establish a process for reviewing the request to issue state bonds [*and submit the request to the commission*]. The commission shall decide whether, and in what manner, to make a request for the issuance of state bonds to the Legislative Assembly.

(6)(a) Each public university listed in ORS 352.002[, *including universities with governing boards*,] shall respond to a request for data from the Legislative Assembly or other state body by submitting the requested information to [*an office designated by*] the Higher Education Coordinating Commission [*as being responsible for university coordination*]. The [*office*] **commission** shall consolidate the data received from public universities [*and provide the data to the commission*]. The commission shall be responsible for providing the data to the Legislative Assembly or other requesting entity.

(b) As used in this subsection, "data" means any information that, as of August 14, 2013, is collected by [*an office designated by*] the Higher Education Coordinating Commission [*as being responsible for university coordination*] from each university and reported to the Legislative Assembly or any other state entity, including but not limited to retention and graduation rates and demographic information on students.

SECTION 13. ORS 352.129 is amended to read:

352.129. (1) **Public universities listed in ORS 352.002 shall, by agreement, establish a system of shared administrative services for the:** [*Notwithstanding ORS 352.087 and 352.102 and section 169, chapter 768, Oregon Laws 2013, the amendments to ORS 243.107 and 351.094 (renumbered 352.237) by sections 88 and 113, chapter 768, Oregon Laws 2013, and the operative date set forth in section 171, chapter 768, Oregon Laws 2013, until July 1, 2019, each university with a governing board shall continue to participate with other public universities listed in ORS 352.002 in all shared administrative services relating to:*]

[(a) The following employee benefits:]

(a) Maintenance of federal tax benefits relating to state bonds issued for the benefit of each public university prior to April 30, 2015;

(b) Performance of administrative services relating to the following employee benefits:

(A) Group insurance or deferred compensation plans authorized by ORS 352.237;

(B) The Public Employees Retirement System or another plan authorized under ORS chapter 238 or 238A;

(C) The Optional Retirement Plan authorized by ORS 243.800; and

(D) A public university tax-deferred investment plan that obtains the advantages of 26 U.S.C. 403(b) and is authorized by ORS 243.820; and

[*(b)*] **(c)** Collective bargaining with any statewide bargaining unit that includes employees of two or more public universities listed in ORS 352.002.

(2)(a) A public university listed in ORS 352.002 may opt out of the shared administrative service listed in subsection (1)(a) of this section only if the Oregon Department of Administrative Services has adopted rules under ORS 286A.863 relating to standards, terms and conditions for maintaining federal tax benefits that apply to public universities listed in ORS 352.002 that opt out of shared administrative services described in subsection (1)(a) of this section.

(b) Prior to July 1, 2019, a public university listed in ORS 352.002 must provide the same scope and overall value of each employee benefit listed in subsection (1)(b) of this section as is required by the statutes referenced in subsection (1)(b) of this section. [*During the period a public university listed in ORS 352.002 is required to participate in shared administrative services under subsection (1) of this section, the public university must provide the same scope and overall value of each employee benefit listed in subsection (1)(a) of this section as is required by the statutes referenced in subsection (1)(a) of this section.*]

[*(3) The shared administrative services listed in subsection (1) of this section must be done under the same terms, conditions, funding model and policy frameworks as those that exist on August 14, 2013, until July 1, 2015. On and after July 1, 2015, public universities listed in ORS 352.002 may choose to participate in shared services under an alternative shared services model.*]

[*(4)(a)*] **(3)(a)** Two or more public universities listed in ORS 352.002 may participate in shared services not described in subsection (1) of this section, including but not limited to shared services involving legal services and information technology.

(b) If a public university listed in ORS 352.002, or a community college, negotiates a contract with one or more third party financial firms, as defined in ORS 348.015, to provide disbursement and management services of financial aid funds, or management of financial accounts, to enrolled students, the public university or community college shall undertake reasonable efforts to establish collaboration agreements with other public universities or community colleges to negotiate the services.

[*(5)(a) A university with a governing board shall participate in shared services providing for maintenance of federal tax benefits relating to state bonds issued for the benefit of the university prior to April 30, 2015, unless the university opts out of shared services as described in paragraph (b) of this subsection.*]

[*(b) A university with a governing board may opt out of the shared services described in paragraph (a) of this subsection only if the Oregon Department of Administrative Services has adopted rules under ORS 286A.863 relating to standards, terms and conditions for maintaining federal tax benefits that apply to universities with governing boards that opt out of shared services described in paragraph (a) of this subsection.*]

[*(c)*] **(4)** As used in this [*subsection*] **section**, “federal tax benefits” has the meaning given that term in ORS 286A.830.

SECTION 14. ORS 291.035 is amended to read:

291.035. (1) As used in this section:

(a)(A) “Information technology initiative” means a project to develop or provide, with a state contracting agency’s or public corporation’s own personnel and resources, or to obtain by means of a procurement or set of related procurements:

(i) New hardware, software or services for data processing, office automation or telecommunications;

(ii) An overhaul, upgrade or replacement of a substantial portion of the hardware or software in an existing data processing, office automation or telecommunications system; or

(iii) A substantial expansion of existing data processing, office automation or telecommunications services.

(B) “Information technology initiative” does not include:

(i) A procurement for preliminary quality assurance services or quality management services;

(ii) A routine update to or purchase of hardware or software within an existing data processing, office automation or telecommunications system;

(iii) A renewal of an existing contract for data processing, office automation or telecommunications services under terms and conditions that are substantially the same as in the existing contract; or

(iv) A replacement of a component of an existing data processing, office automation or telecommunications system that is not essential for the system to function as designed or that occurs at the end of the component’s anticipated life cycle.

(b) “Preliminary quality assurance services” means a set of services in which a contractor provides an independent and objective review of a state contracting agency’s or a public corporation’s plans, specifications, estimates, documentation, available resources and overall purpose for an information technology initiative, including services in which the contractor evaluates a proposed information technology initiative against applicable quality standards and best practices from private industry and other sources.

(c) “Procurement” has the meaning given that term in ORS 279A.010.

(d)(A) “Public corporation” means a corporation:

(i) The operations of which are subject to control by this state or by an agency or instrumentality of this state, or by officers of this state or of an agency or instrumentality of this state;

(ii) That is organized, at least in part, to serve a public purpose; and

(iii) That receives public funds or other support from an entity described in sub-subparagraph (i) of this subparagraph.

(B) “Public corporation” does not include:

(i) A person or entity described in ORS 174.108 (3);

(ii) A city, county, local service district, school district, education service district, community college district or community college service district or a **public university listed in ORS 352.002 [with a governing board listed in ORS 352.054]**; or

(iii) An administrative subdivision of an entity described in sub-subparagraph (ii) of this subparagraph.

(e) “Quality management services” means a set of services in which a contractor provides an independent and objective review and evaluation of a state contracting agency’s, a public corporation’s or another contractor’s performance with respect to an information technology initiative, such as services in which the contractor:

(A) Identifies quality standards that apply or should apply to the information technology initiative;

(B) Suggests methods and means by which the state contracting agency, the public corporation or the other contractor may meet quality standards identified in subparagraph (A) of this paragraph;

(C) Reviews and evaluates the state contracting agency’s, the public corporation’s or the other contractor’s performance regularly as the information technology initiative progresses from start to finish;

(D) Identifies omissions or gaps in the state contracting agency's, the public corporation's or the other contractor's planning, execution, control, methodology, communication or reporting as the information technology initiative progresses from start to finish;

(E) Identifies risks in the state contracting agency's, the public corporation's or the other contractor's plans or approach to designing, developing or implementing the information technology initiative and suggests methods to reduce, mitigate or eliminate the risks;

(F) Assists the state contracting agency or the public corporation in testing or otherwise evaluating the hardware, software or services that are developed, provided or obtained as part of an information technology initiative to determine whether the hardware, software or services conform with the quality standards identified in subparagraph (A) of this paragraph;

(G) Advises the State Chief Information Officer, the state contracting agency or the public corporation as to whether the hardware, software or services that are developed, provided or obtained as part of an information technology initiative meet the contracting agency's or the public corporation's needs, specifications or expectations and otherwise enable the state contracting agency or the public corporation to achieve the objectives for the information technology initiative; or

(H) Identifies unsatisfactory performance and suggests methods the State Chief Information Officer, the state contracting agency, the public corporation or the other contractor might use to eliminate the causes of unsatisfactory performance.

(f) "State contracting agency" has the meaning given that term in ORS 279A.010.

(2)(a) A state contracting agency or a public corporation that implements an information technology initiative shall obtain quality management services from a qualified contractor if the value of the information technology initiative exceeds \$5 million or if the information technology initiative meets criteria or standards that the State Chief Information Officer specifies by rule or policy.

(b) A state contracting agency or public corporation may, subject to ORS 279B.040, procure preliminary quality assurance services from a contractor if the information technology initiative meets the standards set forth in paragraph (a) of this subsection or if the state contracting agency or public corporation otherwise believes that the preliminary quality assurance services will enable the contracting agency or public corporation to implement an information technology initiative successfully.

(3) A state contracting agency or public corporation may not artificially divide or fragment an information technology initiative so as to avoid the application of this section.

(4) Notwithstanding any procurement authority that a state contracting agency or a public corporation has that is not subject to the authority of the Director of the Oregon Department of Administrative Services or the State Chief Information Officer under ORS 279A.050 (2) or (7), the state contracting agency or public corporation is subject to the provisions of subsection (2) of this section and shall consult with and follow the rules, policies and procedures of the State Chief Information Officer in determining the extent of preliminary quality assurance services or quality management services that the state contracting agency or public corporation will require for an information technology initiative.

(5)(a) If a state contracting agency or a public corporation awards a contract for preliminary quality assurance services or quality management services, the contract must provide that at the same time a contractor provides a preliminary or final report to the contract administrator, the contractor shall also provide a copy of the report to:

(A) The State Chief Information Officer;

(B) The Director of the Oregon Department of Administrative Services;

(C) The Legislative Fiscal Officer; and

(D) As appropriate for the specific information technology initiative, to:

(i) The director of the state contracting agency or, if a board or commission sets policy for the state contracting agency, to the board or commission; or

(ii) The governing body of the public corporation.

(b) The state contracting agency or public corporation shall provide the contractor with names, addresses and other contact information the contractor needs to comply with paragraph (a) of this subsection.

(6) This section does not apply to the Secretary of State or the State Treasurer.

SECTION 15. ORS 352.033 is amended to read:

352.033. A **public** university **listed in ORS 352.002** [*with a governing board*] is a governmental entity performing governmental functions and exercising governmental powers. A **public** university **listed in ORS 352.002** [*with a governing board*] is not considered a unit of local or municipal government or a state agency, board, commission or institution for purposes of state statutes or constitutional provisions.

SECTION 16. ORS 352.039 is amended to read:

352.039. (1) A **public** university **listed in ORS 352.002** [*with a governing board*] is created to carry out public missions and services in keeping with principles of public accountability and fundamental public policy, guided by the legislative findings in ORS 350.001 and 350.005 and consistent with the goals and mission described in ORS 350.009 and 350.014.

(2) A **public** university **listed in ORS 352.002** [*with a governing board*] is an independent public body with statewide purposes and missions and without territorial boundaries. A **public** university [*with a governing board*] shall exercise and carry out all of the powers, rights and privileges, within and outside this state, that are expressly conferred upon the **public** university [*with a governing board*], or that are implied by law or are incident to such powers, rights and duties.

SECTION 17. ORS 352.087 is amended to read:

352.087. (1) A **public** university **listed in ORS 352.002** [*with a governing board*] may:

(a) Acquire, receive, hold, keep, pledge, control, convey, manage, use, lend, expend and invest all moneys, appropriations, gifts, bequests, stock and revenue from any source.

(b) Borrow money for the needs of the university in such amounts and for such time and upon such terms as may be determined by the university or the governing board.

(c) Make any and all contracts and agreements, enter into any partnership, joint venture or other business arrangement and create and participate fully in the operation of any business structure, including but not limited to the development of business structures and networks with any public or private government, nonprofit or for-profit person or entity, that in the judgment of the university or the governing board is necessary or appropriate.

(d) Establish, collect and use charges, fines and fees for services, facilities, operations and programs.

(e) Purchase, receive, subscribe for or otherwise acquire, own, hold, vote, use, sell, mortgage, lend, pledge, invest in or otherwise dispose of and deal in or with the shares, stock or other equity or interests in or obligations of any other entity. The State of Oregon may not have any proprietary or other interest in investments or funds referenced in this paragraph.

(f) Acquire, purchase, purchase on a contractual basis, borrow, receive, own, hold, control, convey, sell, manage, operate, lease, lease-purchase, license, lend, invest in, issue, improve, develop, use, expend and dispose of personal property, including intellectual property, of any nature, tangible or intangible.

(g) Establish employee benefit plans of any type, subject to ORS 352.237.

(h) Take, hold, grant, pledge or dispose of mortgages, liens and other security interests on real and personal property.

(i) Spend all available moneys without appropriation or expenditure limitation approval from the Legislative Assembly, except for moneys received by a **public** university [*with a governing board*] pursuant to a funding request submitted under ORS 352.089 (3) and the proceeds of state bonds issued for the benefit of a **public** university [*with a governing board*]. The proceeds of state bonds issued for the benefit of a **public** university [*with a governing board*] must be held pursuant to an agreement entered into by the State Treasurer and a **public** university [*with a governing board*] under ORS 352.135 (2).

(j) Acquire, purchase, purchase on a contractual basis, borrow, receive, own, hold, control, convey, mortgage, pledge or otherwise encumber, sell, manage, operate, lease, lease-purchase, license, lend, invest in, improve, develop, use, expend and dispose of real property.

(k) Erect, construct, improve, remodel, develop, repair, maintain, equip, furnish, lease, lend, convey, sell, manage, operate, use and dispose of any building, structure, land or project.

(L) Acquire, by condemnation or otherwise, private property that is necessary or convenient. The right to acquire property by condemnation shall be exercised as provided by ORS chapter 35.

(m) Establish policies for the organization, administration and development of the university which, to the extent set forth in those policies, shall have the force of law and may be enforced through university procedures that include an opportunity for appeal and in any court of competent jurisdiction.

(n) Sue in its own name, be sued in its own name and issue and enforce subpoenas in its own name.

(o) Hire or retain attorneys for the provision of all legal services. A **public** university [*with a governing board*] shall reimburse the State Treasurer for legal fees incurred in connection with state bonds issued at the request of the Higher Education Coordinating Commission on behalf of the university.

(p) Purchase any and all insurance, operate a self-insurance program or otherwise arrange for the equivalent of insurance coverage of any nature and the indemnity and defense of its officers, agents and employees or other persons designated by the university.

(q) Subject to the procedures set forth in ORS 352.089, establish, supervise and control academic and other programs, units of operation and standards, qualifications, policies and practices relating to university matters such as admissions, curriculum, grading, student conduct, credits, scholarships and the granting of academic degrees, certificates and other forms of recognition.

(r) Enforce and recover any fees, charges and fines, including but not limited to tuition and mandatory enrollment fees.

(s) Make available and perform any and all services on such terms as the governing board considers appropriate.

(t) Delegate and provide for the further delegation of any and all powers and duties, subject to the limitations expressly set forth in law.

(2) The budget for a **public** university **listed in ORS 352.002** [*with a governing board*] shall be prepared in accordance with generally accepted accounting principles and adopted by the governing board in accordance with ORS 192.610 to 192.690.

(3) A governing board of a **public** university **listed in ORS 352.002** or a **public** university [*with a governing board*] may perform any other acts that in the judgment of the governing board or university are required, necessary or appropriate to accomplish the rights and responsibilities granted to the governing board or university by law.

SECTION 18. ORS 352.096 is amended to read:

352.096. (1)(a) In consultation with the Governor, or the Governor's designee, the governing board of a **public** university **listed in ORS 352.002** shall appoint and employ a president of the university.

(b) The governing board shall prescribe the president's compensation and terms and conditions of employment.

(2) The president of [*the*] a **public** university **listed in ORS 352.002** is the president of the faculty. The president is also the executive and governing officer of the university, except as otherwise provided by statute or action of the governing board. Subject to the supervision of the governing board, the president of the university has authority to direct the affairs of the university.

(3) Except in the case of an interim or acting president, the hiring committee for the president of a **public** university **listed in ORS 352.002** [*with a governing board*] shall include representatives of the university community and at least one other president of a public university based in Oregon.

(4) The governing board of a **public** university **listed in ORS 352.002** is responsible for the reappointment or removal of the president of the university.

(5) A **public university listed in ORS 352.002** *[with a governing board]* may appoint and employ any instructional, administrative, professional, trade, occupational and other personnel as are necessary or appropriate and establish their compensation and terms and conditions of employment, subject to the limitations set forth in ORS 352.124 (1) and (2).

SECTION 19. ORS 352.113 is amended to read:

352.113. (1) Legal title to all real property acquired by a **public university listed in ORS 352.002** *[with a governing board]* must be taken and held in the name of the State of Oregon, acting by and through the governing board **of the public university**. Legal title to all real property conveyed to a **public university** *[with a governing board]* is considered to be conveyed to and vested in the State of Oregon, acting by and through the governing board. Authorized conveyances of all real property, other than university lands, acquired by or vested in the State of Oregon for the use or benefit of the university must be executed in the name of the State of Oregon, acting by and through the governing board, by the chairperson of the governing board.

(2) The governing board has custody and control of and shall care for all real property used for university purposes. Management, maintenance, encumbrance, disposal and preservation of all real property used for university purposes, whether the real property is acquired before or after the establishment of a governing board, is the responsibility of the governing board. Unless the governing board has granted prior consent, real property taken and held under this section may only be encumbered by the State of Oregon in accordance with state law and in a manner that would not impair the financial condition of the university or the rights of the holders of any obligations of the university issued or incurred under any master indenture or other financing agreement.

(3) Legal title to all personal property acquired, constructed, remodeled, repaired, equipped or furnished with the proceeds of bonds issued pursuant to Article XI-Q of the Oregon Constitution for the benefit of a **public university listed in ORS 352.002** *[with a governing board]* must be taken and held in the name of the State of Oregon, acting by and through the governing board. The governing board has custody and control of the personal property and shall care for the personal property owned by the State of Oregon. When the Article XI-Q bonds are no longer outstanding, legal title to the personal property automatically by operation of law transfers to and vests in the **public university** *[with a governing board]* for whose benefit the Article XI-Q bonds were issued.

(4) Unless the State Treasurer has granted prior consent, real or personal property held in the name of the State of Oregon, or in which the State of Oregon has an ownership or other legal interest, that was acquired, constructed, improved with or otherwise directly benefited by the proceeds of outstanding state bonds, may not be:

(a) Used by a governing board in a manner that would give rise to private business use; or

(b) Sold, transferred, encumbered, leased or otherwise disposed of by a governing board. The reference to leases in this paragraph does not apply to residential leases that a governing board enters into with students, faculty or employees of the university.

SECTION 20. ORS 352.118 is amended to read:

352.118. (1) A governing board may, in its sole discretion, do all of the following:

(a) Police, control and regulate traffic and parking of vehicles on university property.

(b) Establish a police department and commission one or more employees as police officers in the manner and with all of the privileges and immunities set forth in ORS 352.121. When a governing board establishes a police department and commissions one or more employees as police officers, the president of the university, in cooperation with the chief of the police department, shall establish a process by which the university will receive and respond to complaints involving the policies of the police department and the conduct of the police officers.

(c) Commission special campus security officers who, when acting in the scope of their employment, shall have stop and frisk authority as set forth in ORS 131.605 to 131.625 and probable cause arrest authority and the accompanying immunities as set forth in ORS 133.310 and 133.315. Special campus security officers may not be authorized to carry firearms as police officers and, except as provided in subsection (2) of this section, may not be considered police officers for purposes of ORS 181A.355, 238.005, 243.005 or 243.736.

(2) A **public university listed in ORS 352.002** *[with a governing board]*, acting by and through its special campus security officers, is a criminal justice agency for purposes of rules adopted pursuant to ORS 181A.280 (3).

SECTION 21. ORS 352.124 is amended to read:

352.124. (1) A **public university listed in ORS 352.002** *[with a governing board]* shall engage in collective bargaining with local bargaining organizations of the employees of the university.

(2) A **public university listed in ORS 352.002** *[with a governing board]* shall participate in a collective bargaining partnership with other public universities in this state for the purpose of engaging in collective bargaining with existing statewide bargaining organizations of the employees of the public university. The collective bargaining partnership shall be established by written agreement.

(3) Subject to the authority of the Secretary of State to audit public accounts, a **public university listed in ORS 352.002** *[with a governing board]* may conduct an independent audit if the governing board **of the public university** considers the audit advisable. Subject to ORS 297.250, the independent audit is subject to the exclusive discretion and control of the university. The independent audit is subject to disclosure pursuant to ORS 192.410 to 192.505.

SECTION 22. ORS 352.135 is amended to read:

352.135. (1) All moneys collected or received by a **public university listed in ORS 352.002** *[with a governing board]*, placed to the credit of the governing board **of the public university** and remaining unexpended and unobligated on July 1, 2014, or the date that the board is established, whichever is later, and all moneys collected or received by a **public university** *[with a governing board]* after that date, may be:

(a) Deposited into one or more accounts established by the board in depositories insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund, and the governing board shall ensure that sufficient collateral secures any amount of funds on deposit that exceeds the limits of the coverage of the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund; or

(b) Held, kept, pledged, controlled, conveyed, managed, used, loaned, expended and invested as set forth in ORS 352.087 and 352.102.

(2) Upon a request by the State Treasurer, a **public university listed in ORS 352.002** *[with a governing board]* shall enter into a written agreement with the state that provides for the State Treasurer to receive, hold, keep, manage and invest any amounts under the control of the university that the State Treasurer determines should be held by the State Treasurer to provide for payment of state bonds and other state obligations that are to be paid from appropriations described in ORS 352.089 (4), revenues of the university or other moneys under the control of the university. The agreement may, at the request of the State Treasurer, require the university to pay the costs incurred by the State Treasurer in connection with entering into and carrying out the agreement.

(3) Upon a request by a **public university listed in ORS 352.002** *[with a governing board]*, the State Treasurer may receive, hold, keep, manage and invest any or all moneys, appropriations, gifts, bequests or revenues of the university from any source in accordance with an agreement entered into between the State Treasurer and the university and with the policies and procedures established by the State Treasurer, including the recoupment of costs incurred by the State Treasurer in carrying out these tasks.

(4) As used in this section, “depository” has the meaning given that term in ORS 295.001.

SECTION 23. ORS 352.138, as amended by section 8, chapter 31, Oregon Laws 2016, is amended to read:

352.138. (1) The following entities are not subject to any provision of law enacted after January 1, 2013, that is unique to governmental entities unless the following entities are expressly named:

(a) A **public university listed in ORS 352.002** *[with a governing board]*; and

(b) Any not-for-profit organization or other entity if the equity of the entity is owned or controlled exclusively by a **public university** *[with a governing board]* and if the organization or entity is created by the university to advance any of the university’s statutory missions.

(2) Notwithstanding subsection (1) of this section and ORS 352.033, the provisions of ORS 30.260 to 30.460, 33.710, 33.720, 200.005 to 200.025, 200.045 to 200.090, 236.605 to 236.640, 279.835, 279.840, 279.850 and 297.040 and ORS chapters 35, 190, 192 and 244 apply to a **public university listed in ORS 352.002** *[with a governing board]* under the same terms as they apply to public bodies other than the state.

(3) Except as otherwise provided by law, the provisions of ORS 35.550 to 35.575, 180.060, 180.210 to 180.235, 184.305 to 184.345, 190.480, 190.490, 200.035, 243.696, 357.805 to 357.895 and 656.017 (2) and ORS chapters 182, 183, 240, 270, 273, 276, 278, 279A, 279B, 279C, 282, 283, 291, 292, 293, 294, 295 and 297 do not apply to a **public university listed in ORS 352.002** *[with a governing board]*.

(4)(a) Notwithstanding subsections (1) and (3) of this section and ORS 352.033, ORS 240.167, 279C.600 to 279C.625, 279C.800, 279C.810, 279C.825, 279C.827, 279C.830, 279C.835, 279C.836, 279C.838, 279C.840, 279C.845, 279C.850, 279C.855, 279C.860, 279C.865, 279C.870 and 292.043 apply to a **public university listed in ORS 352.002** *[with a governing board]* under the same terms as they apply to public bodies other than the state.

(b) Notwithstanding subsections (1) and (3) of this section, ORS 279C.800 to 279C.870 apply to an agreement under the terms of which a private entity constructs, reconstructs, renovates or paints an improvement on real property owned by a **public university listed in ORS 352.002** *[with a governing board]* or by a not-for-profit organization or other entity that a **public university** *[with a governing board]* owns or controls exclusively.

(5) Notwithstanding subsection (2) of this section, ORS 190.430 and 192.105 do not apply to a **public university listed in ORS 352.002** *[with a governing board]* or any organization or other entity described in subsection (1) of this section.

(6) Notwithstanding ORS 352.033, except as set forth in subsection (3) of this section, ORS 243.650 to 243.782 and 276.073 to 276.090 and ORS chapters 238 and 238A apply to a **public university listed in ORS 352.002** *[with a governing board]* under the same terms as they apply to the state.

(7) ORS 350.285, 350.290, 352.198, 352.226, 352.232, 352.293, 352.296, 352.303, 352.309 and 352.313 apply to a **public university listed in ORS 352.002** *[with a governing board]*.

(8) Notwithstanding ORS 352.033, a **public university listed in ORS 352.002** *[with a governing board]* and its agents and employees remain subject to all statutes and administrative rules of this state that create rights, benefits or protections in favor of military veterans, service members and families of service members to the same extent as an agency of this state would be subject to such statutes and administrative rules.

(9) Notwithstanding ORS 352.033, ORS 350.540, 350.545 and 350.550 apply to a **public university listed in ORS 352.002** *[with a governing board]*. A **public university** *[with a governing board]* may not issue a tax credit certificate under ORS 350.540, 350.545 and 350.550 that will cause the General Fund to be owed more than \$8.4 million at any one time under ORS 350.540, 350.545 and 350.550.

(10) If state bonds are issued for the benefit of a **public university listed in ORS 352.002** *[with a governing board]* under Article XI-Q of the Oregon Constitution:

(a) The Higher Education Coordinating Commission shall have the powers and duties of a project agency, as defined in ORS 286A.816, to the extent necessary for the issuance of the state bonds and the administration of the proceeds of the state bonds; and

(b) The university and the Higher Education Coordinating Commission shall enter into grant contracts or loan agreements that comply with rules adopted by the Oregon Department of Administrative Services relating to:

(A) Disbursement of project funds by a project agency through grant contracts or loan agreements;

(B) Submission of a request for project funds to the commission under ORS 350.095; and

(C) Any other matters determined by the Oregon Department of Administrative Services to be necessary for the administration of the Article XI-Q bond program.

(11) Nothing in this section may be construed so that statutory provisions that are not set forth in this section apply to a **public university listed in ORS 352.002** *[with a governing board]*.

SECTION 24. ORS 352.141 is amended to read:

352.141. A **public** university **listed in ORS 352.002** [*with a governing board*] may open, establish, lay out and dedicate to the public use any streets through lands owned by or used for the university. When such streets are opened, established and laid out, they are declared to be dedicated to the public use. The university may declare that it is the road authority pursuant to ORS 810.010 (4) for any or all roads through lands owned by or used for the university.

SECTION 25. ORS 352.146 is amended to read:

352.146. The president and professors constitute the faculty and as such have the immediate government and discipline of a **public** university **listed in ORS 352.002** [*with a governing board*] and the students therein, except as otherwise provided by law or action of the governing board **of the public university**. The faculty may, subject to the supervision of the governing board and ORS 352.089, prescribe the course of study to be pursued in the university and the textbooks to be used.

SECTION 26. ORS 352.226 is amended to read:

352.226. (1) A governing board as defined in ORS 352.029 may, for the public university under its control, adopt standards and specific orders by or through the president of each public university governing access to personnel records of the public university or office, department or activity that are less than 25 years old.

(2) Standards adopted under subsection (1) of this section shall require that personnel records be subjected to restrictions on access unless upon a finding by the president of the public university that the public interest in maintaining individual rights to privacy in an adequate educational environment would not suffer by disclosure of such records. Access to such records may be limited to designated classes of information or persons, or to stated times and conditions, or to both, but cannot be limited for records more than 25 years old.

(3) A standard or order promulgated pursuant to this section may not deny to a faculty member full access to the member's personnel file or records kept by the public university, except as provided in subsections (7) and (8) of this section.

(4) The number of files relating to the evaluation of a faculty member is limited to three, to be kept in designated, available locations.

(5) Any evaluation received by telephone must be documented in each of the faculty member's files by means of a written summary of the conversation with the names of the conversants identified.

(6) A faculty member is entitled to submit, for placement in the three files, evidence rebutting, correcting, amplifying or explaining any document contained therein and other material that the member believes might be of assistance in the evaluation process.

(7) Letters and other information submitted in confidence to the State Board of Higher Education or its public universities, offices, departments or activities prior to July 1, 1975, shall be maintained in the files designated by the governing board of the public university currently employing the faculty member. However, if a faculty member requests access to those files, the anonymity of the contributor of letters and other information obtained prior to July 1, 1975, shall be protected. The full text shall be made available except that portions of the text that would serve to identify the contributor shall be excised by a faculty committee. Only the names of the contributors and the excised portions of the documents may be kept in a file other than the three prescribed by subsection (4) of this section.

(8)(a) Confidential letters and other information submitted to or solicited after July 1, 1975, by the State Board of Higher Education or its public universities, offices, departments or activities prior to the employment of a prospective faculty member are exempt from the provisions of this section. However, if the member is currently employed by a public university or its offices, departments or activities, the confidential preemployment materials shall be placed in the three authorized files. If a faculty member requests access to the member's files, the anonymity of the contributor of confidential preemployment letters and other preemployment information shall be protected. The full text shall be made available, except that portions of the text that would serve to identify the contributor shall be excised and retained in a file other than the three designated in subsection (4) of this section.

(b) Confidential letters and other information submitted to or solicited by a public university listed in ORS 352.002 after the date that the university [*became a university with*] **obtained** a governing board, and prior to the employment of a prospective faculty member are exempt from the provisions of this section. However, if the member is employed by the university, the confidential preemployment materials shall be placed in the three authorized files. If a faculty member requests access to the member's files, the anonymity of the contributor of confidential preemployment letters and other preemployment information shall be protected. The full text shall be made available, except that portions of the text that would serve to identify the contributor shall be excised and retained in a file other than the three designated in subsection (4) of this section.

(9) Classroom survey evaluation by students of a faculty member's classroom or laboratory performance shall be anonymous. The record of tabulated reports shall be placed in at least one of the files designated in subsection (4) of this section. All survey instruments used to obtain evaluation data shall be returned to the faculty member.

(10) A public university listed in ORS 352.002 and, after July 1, 1975, but before the date on which the public university **obtained** [*became a university with*] a governing board, the State Board of Higher Education and its public universities, offices, departments or activities, when evaluating its employed faculty members, may not solicit or accept letters, documents or other materials, given orally or in written form, from individuals or groups who wish their identity kept anonymous or the information they provide kept confidential.

(11) A standard or order promulgated pursuant to this section does not limit the authority of a public university to prepare, without identification of individual persons who have not consented thereto, statistical or demographic reports from personnel records.

(12) Any category of personnel records specifically designated as confidential pursuant to valid standards or orders pursuant to this section is not a public record for the purposes of ORS 192.420.

(13) As used in this section, "personnel records" means records containing information kept by the public university, office, department or activity concerning a faculty member and furnished by the faculty member or by others about the faculty member at the request of the faculty member or the public university, office, department or activity, including, but not limited to, information concerning discipline, membership activity, employment performance or other personal records of individual persons.

SECTION 27. ORS 352.388 is amended to read:

352.388. As used in ORS 352.388 to 352.415:

(1) "Bond-related costs" means:

(a) The costs of paying the principal of, the interest on and the premium, if any, on revenue bonds.

(b) The costs and expenses of issuing, administering and maintaining revenue bonds, including, but not limited to, the costs and expenses of:

(A) Redeeming revenue bonds.

(B) Paying amounts due in connection with credit enhancement devices or agreements for exchange of interest rates.

(C) Paying the fees, administrative costs and expenses of a **public university listed in ORS 352.002** [*with a governing board*] related to revenue bonds, including, but not limited to, the costs of consultants, bond trustees, remarketing agents, escrow agents, arbitrage rebate consultants, calculation agents and advisers retained by the university.

(c) The costs of funding reserves for the revenue bonds.

(d) Capitalized interest for the revenue bonds.

(e) Rebates or penalties due to the United States in connection with the revenue bonds.

(f) Any other costs or expenses that a **public university** [*with a governing board*] determines are necessary or desirable in connection with issuing and maintaining the revenue bonds.

(2) "Credit enhancement device" means an agreement or contractual relationship between a **public university listed in ORS 352.002** [*with a governing board*] and a bank, trust company, insur-

ance company, surety bonding company, pension fund or other financial institution or entity providing additional credit on or security for a revenue bond.

(3) "For the benefit of a **public** university *[with a governing board]*" means, in relation to state bonds:

(a) Before August 14, 2013, the portion of the proceeds of the state bonds that was used to finance property, projects or liabilities on behalf of the State Board of Higher Education and for the benefit of a **public** university **listed in ORS 352.002** *[with a governing board]* in pursuing the purposes and missions of the university.

(b) On or after August 14, 2013, the portion of the proceeds of the state bonds a **public** university **listed in ORS 352.002** *[with a governing board]* is eligible to receive under ORS 352.402 to finance property, projects or liabilities on behalf of and for the benefit of a **public** university *[with a governing board]* in pursuing the purposes and missions of the university.

(4) "Obligation" means:

(a) A revenue bond;

(b) The commitment of a **public** university **listed in ORS 352.002** *[with a governing board]* in connection with a credit enhancement device; or

(c) An agreement for exchange of interest rates.

(5) "Operative document" means a bond declaration, trust agreement, indenture, security agreement or other document in which a **public** university **listed in ORS 352.002** *[with a governing board]* makes a pledge.

(6) "Pledge" means:

(a) To create a lien on revenue or property.

(b) A lien created on revenue or property.

(7) "Revenue" means tuition, fees, charges, rents, revenues, interest, dividends, receipts and other income of a **public** university **listed in ORS 352.002** *[with a governing board]*, except moneys received by the university from taxes collected by the State of Oregon.

(8) "Revenue bond":

(a) Means a contractual undertaking or instrument of a **public** university **listed in ORS 352.002** *[with a governing board]* to repay borrowed moneys, which undertaking or instrument is secured by a pledge of all or part of the revenue of the university.

(b) Does not mean a credit enhancement device or a state bond.

SECTION 28. ORS 352.402 is amended to read:

352.402. (1) A **public** university **listed in ORS 352.002** *[with a governing board]* may elect to remain eligible to receive proceeds of state bonds. If a **public** university *[with a governing board]* requests the State Treasurer to issue state bonds for the benefit of the university *[with a governing board]* that are authorized under Article XI-F(1) or XI-Q of the Oregon Constitution or ORS 283.085 to 283.092, and the state bonds are intended to be repaid in whole or in part by university revenues or other moneys under the control of the university, the State Treasurer must review and approve all plans to issue revenue bonds of the university and to execute other obligations related to the revenue bonds.

(2) The State Treasurer shall limit the scope of review and approval under subsection (1) of this section to consideration of periodic cash flow projections and other information necessary to determine the sufficiency of the cash flow of the **public** university **listed in ORS 352.002** *[with a governing board]* to pay any loans from state agencies funded with the proceeds of state bonds and to pay costs for:

(a) State bonds issued for the benefit of the **public** university **listed in ORS 352.002** *[with a governing board]* pursuant to Article XI-F(1) or XI-Q of the Oregon Constitution or ORS 283.085 to 283.092; and

(b) Revenue bonds issued pursuant to ORS 352.388 to 352.415.

(3) A **public** university **listed in ORS 352.002** *[with a governing board]* that issues revenue bonds of the university, or executes other obligations related to the revenue bonds, without the approval of the State Treasurer as provided in subsection (2) of this section is not eligible to receive proceeds

of the state bonds described in subsection (1) of this section and that are intended to be repaid in whole or in part by university revenues or other moneys under the control of the university on or after August 14, 2013.

SECTION 29. ORS 352.408 is amended to read:

352.408. (1) A **public university listed in ORS 352.002** [*with a governing board*]:

(a) May issue revenue bonds for any lawful purpose of the university in accordance with ORS chapter 287A.

(b) May issue under ORS 287A.360 to 287A.380 refunding bonds of the same character and tenor as the revenue bonds replaced.

(2) For the purposes of ORS 271.390 and ORS chapter 287A, a **public university listed in ORS 352.002** [*with a governing board*] is a public body.

(3) ORS 287A.150 does not apply to revenue bonds issued by a **public university listed in ORS 352.002** [*with a governing board*].

(4) A **public university listed in ORS 352.002** [*with a governing board*]:

(a) May grant leases of real property held by a trustee or lender for a term that ends on the date on which all amounts due under the operative documents have been paid, or provision for payment has been made, or for a term of up to 20 years after the last scheduled payment under the operative documents, whichever is sooner. The leases may grant the trustee or lender the right to evict the university and exclude the university from possession of the real property for the term of the lease if the university fails to pay when due the amounts scheduled to be paid under the operative documents or otherwise defaults under the operative documents. Upon default, the trustee or lender may sublease the real property to third parties and apply any rents to payments scheduled to be made under the operative documents.

(b) May not mortgage, pledge or grant a security interest in, or otherwise encumber, real or personal property that has been pledged or leased to provide security for, or acquired, constructed, improved with, or otherwise directly benefited by, the proceeds of outstanding state bonds, except as provided in ORS 352.113 (4).

(5) Revenue bonds and other obligations authorized by this section:

(a) Are revenue bonds or obligations of a political subdivision of the State of Oregon.

(b) Are not an indebtedness or obligation of the State of Oregon and are not a charge upon revenue or property of the State of Oregon, except as provided in subsection (4) of this section.

(c) Are not a charge upon any revenue or property of a **public university listed in ORS 352.002** [*with a governing board*] unless the revenue or property is pledged to secure the revenue bonds or other obligations.

(d) Are not payable from, and may not be secured by a pledge of or lien on, any amounts a **public university** [*with a governing board*] is required to:

(A) Deposit with the State Treasurer pursuant to ORS 352.135 (2); or

(B) Pay to the State Treasurer pursuant to a schedule described in ORS 352.415.

SECTION 30. ORS 352.415 is amended to read:

352.415. (1) ORS 352.388 to 352.415 do not impair the obligations, as defined in ORS 286A.100, or agreements of the State of Oregon or the State Board of Higher Education with respect to state bonds issued before August 14, 2013, for the benefit of a **public university** [*with a governing board*] **listed in ORS 352.002**.

(2) A **public university listed in ORS 352.002** [*with a governing board*] shall take all actions necessary to ensure full compliance with the operative documents executed with respect to state bonds issued before, on or after August 14, 2013, by the State Treasurer for the benefit of the **public university** [*with a governing board*].

(3) The State Treasurer, in consultation with the Oregon Department of Administrative Services, shall at least annually provide a **public university listed in ORS 352.002** [*with a governing board*] a schedule of outstanding state bonds and other obligations for which the university must pay, including the payment dates and amounts, or methods for determining the amounts. To prepare the schedule, the State Treasurer may request and rely upon information produced by one or more

universities with a governing board or a shared services enterprise of the universities that provides services related to debt management. The schedule must include amounts sufficient to pay principal, interest and premium, if any, on the state bonds, and to pay administrative and other costs of the State of Oregon that are related to the state bonds or other obligations. If the State Treasurer issues state bonds for the benefit of a **public** university *[with a governing board]* on or after August 14, 2013, that are intended to be repaid in whole or in part by university revenues or other moneys under the control of the university, the schedule shall be amended to include such state bonds and the amounts to be paid by the university. In the absence of manifest error, the schedule provided by the State Treasurer to a **public** university *[with a governing board]* is binding on the university. The **public** university *[with a governing board]* shall pay the amounts specified in the schedule provided by the State Treasurer on or before the dates specified in the schedule from the legally available revenue of the university and on a *pari passu* basis with the payment of any revenue bonds of the university issued pursuant to ORS 352.408.

(4) At the request of the State Treasurer, a **public** university **listed in ORS 352.002** *[with a governing board]* shall provide the State Treasurer with periodic cash flow projections and other information that allow the State Treasurer to review and approve the sufficiency of the university's cash flow to pay amounts specified in the schedule described in subsection (3) of this section and to pay amounts owed under loans from state agencies that were funded with the proceeds of state bonds.

(5) Moneys deposited with the State Treasurer or the Oregon Department of Administrative Services in a debt service reserve account or otherwise for the portion of the debt service associated with obligations entered into before August 14, 2013, for the benefit of a **public** university **listed in ORS 352.002** *[with a governing board]* must remain with the State Treasurer or the Oregon Department of Administrative Services until the obligations have been retired or defeased. Earnings on moneys described in this subsection must be credited to the account or fund in which the moneys are held.

(6) The principal, interest, premium, if any, and any issuance costs of state bonds issued before, on or after August 14, 2013, for the benefit of a **public** university **listed in ORS 352.002** *[with a governing board]*, and any related credit enhancement device or interest rate exchange agreement, shall be paid from the sources identified in the laws and operative documents authorizing the state bonds. The **public** university *[with a governing board]* for which the state bonds were issued shall pay any other expenses and liabilities, including, but not limited to, legal expenses arising from an inquiry, audit or other action by a federal or state regulatory body, unless the expense or liability results solely from the negligence or willful misconduct of a state agency.

(7) Pursuant to ORS chapter 180, on behalf of the State Treasurer or any other state agency, the Attorney General shall appear, commence, prosecute or defend any action, suit, matter, cause or proceeding arising from any state bond issued for the benefit of a **public** university **listed in ORS 352.002** *[with a governing board]* and any related credit enhancement device or interest rate exchange agreement. As soon as practicable after a governing board is established by a **public** university pursuant to ORS 352.054, the university *[with a governing board]* and the State Treasurer shall enter into an agreement that addresses reimbursement of reasonable costs and expenses associated with the legal representation of the State Treasurer in connection with state bonds issued for the benefit of the **public** university *[with a governing board]* before, on or after August 14, 2013, and any other topic necessary for the Department of Justice to provide legal representation to the State Treasurer in connection with state bonds issued for the benefit of the **public** university *[with a governing board]* and to provide representation related to funds and accounts or services provided under ORS 352.135.

(8) A **public** university **listed in ORS 352.002** *[with a governing board]* shall assume responsibility for the indemnity and defense of university officers, agents and employees with regard to, as applicable, claims asserted and actions commenced in connection with state bonds issued for the benefit of the **public** university *[with a governing board]*.

SECTION 31. ORS 352.442 is amended to read:

352.442. A **public university listed in ORS 352.002** [*with a governing board*] may, in its discretion, accept financial assistance and grants, either in the form of money or labor, from the United States or any of its agencies, subject to the terms and conditions thereof, regardless of any laws of this state in conflict with the regulations of the federal government with respect thereto, and may also accept from others any donation or grant of land, to be taken and held in the name of the State of Oregon, acting by and through the governing board, or gift of money or other valuable gift or thing, for any of the purposes contemplated by Article XI-F(1) and Article XI-G of the Oregon Constitution and ORS 352.157 to 352.171. Unless enjoined by the terms or conditions of any such gift or grant, the governing board may convert the same, or any of them, into money, through sale or disposal thereof.

SECTION 32. ORS 352.450 is amended to read:

352.450. (1) The Public University Fund is established in the State Treasury, separate and distinct from the General Fund. Any interest or other investment income derived from moneys in the Public University Fund is credited to the fund.

(2) Except for moneys otherwise designated by statute or federal law, the governing board of any public university listed in ORS 352.002 may place any or all moneys received by it into the Public University Fund. Once deposited in the fund, the moneys of a public university shall be commingled with other moneys in the fund and are fungible, except to the extent they may be separately accounted for by the public university designated under subsection (3)(a) of this section.

(3)(a) Public universities listed in ORS 352.002 that choose to participate in the Public University Fund shall, by agreement or other structure authorized by law, designate the participating public university responsible for the Public University Fund and identify any and all obligations necessary for a participating public university listed in ORS 352.002 to serve as the designated responsible party under this subsection.

(b) The participating public universities shall inform the State Treasurer of the designated public university responsible for the Public University Fund. The participating public universities may change which participating public university is responsible for the Public University Fund.

(c) The State Treasurer may conclusively rely on a written instruction from the public universities as to the designated public university responsible for the fund.

(d) The designated public university shall inform the State Treasurer of the personnel authorized to provide instructions to the State Treasurer with respect to moneys in the fund. The State Treasurer may rely on instructions from the authorized personnel of the designated public university related to the deposit, withdrawal, investment, transfer, borrowing or lending of moneys in the fund. The State Treasurer is not responsible for or liable to the public universities for any error or omission in the instructions the State Treasurer receives from the designated public university.

(4) All moneys in the Public University Fund are continuously appropriated to the public university responsible for the Public University Fund, to be used only in a manner consistent with the agreement or other structure authorized by law as described in subsection (3) of this section.

(5) The moneys in the Public University Fund may be invested as provided in ORS 293.701 to 293.857.

(6) Public universities that participate in the Public University Fund may, by agreement or other structure authorized by law, direct the public university designated under subsection (3)(a) of this section to establish accounts and subaccounts within the fund when the participating public universities determine that accounts or subaccounts are necessary or desirable. Except when otherwise specified by a statute establishing an account, the participating public universities or, as appropriate, the designated public university, may credit any interest or income derived from moneys in the fund to any account or subaccount within the fund.

(7) Public universities that participate in the Public University Fund or, as appropriate, the public university designated under subsection (3)(a) of this section, shall keep a record of all moneys deposited into the fund. The record shall indicate by separate cumulative accounts and subaccounts the sources from which the moneys are derived and the individual activity or program against which each withdrawal is charged.

(8) Notwithstanding any other provision of law, public universities that participate in the Public University Fund or, as appropriate, the public university designated under subsection (3)(a) of this section, may transfer or lend the moneys in the fund to other participating public universities listed in ORS 352.002. The Public University Fund may be a borrowing fund for purposes of ORS 293.205 to 293.225 and may borrow from the Oregon Short Term Fund established in ORS 293.728 or other state funds. Subject to the limitations of Article XI, section 7, of the Oregon Constitution, the Public University Fund may be a lending fund for purposes of ORS 293.205 to 293.225 and may lend moneys to other state funds. The public university designated under subsection (3)(a) of this section shall be the relevant state agency or department for whom the State Treasurer may transfer funds or with whom the State Treasurer may enter into an agreement pursuant to ORS 293.205 to 293.225.

(9) Notwithstanding any other provision of law, ORS 293.169, 293.171, 293.353, 293.406, 293.450, 293.455, 293.460 and 293.465 to 293.485 apply to moneys in the Public University Fund and to checks, warrants or electronic funds transfers from or to the fund. For purposes of ORS 293.169, 293.171, 293.353, 293.406, 293.450, 293.455, 293.460 and 293.465 to 293.485:

(a) The public university designated under subsection (3)(a) of this section is the relevant state agency or department; and

(b) The personnel of the designated public university authorized to provide instructions to the State Treasurer are the relevant state officers.

(10)(a) The State Treasurer may establish separate or commingled funds, or establish separate or commingled accounts within funds established under this subsection. The State Treasurer may establish separate or commingled accounts within other funds in the State Treasury to receive, hold, keep, manage or invest moneys of a **public** university **listed in ORS 352.002** [*with a governing board*] pursuant to any agreements entered into by the State Treasurer and the university under ORS 352.135. The moneys in a fund or account established under this subsection may be invested as provided in ORS 293.701 to 293.857 and any interest or other investment income derived from the fund or account shall be credited to the fund or account. All moneys held in a fund or account established under this subsection are continuously appropriated to the relevant **public** university [*with a governing board*] that has entered into an agreement with the State Treasurer under ORS 352.135 for the purpose of carrying out the powers and duties of the **public** university [*with a governing board*] or the purposes for which the moneys were donated.

(b) Except for moneys held to provide for the payment of state bonds and other state obligations described in ORS 352.089 (4), a **public** university **listed in ORS 352.002** [*with a governing board*] may transfer or lend the moneys held in the State Treasury pursuant to any agreements entered into under ORS 352.135 to other public universities listed in ORS 352.002. A fund or account in the State Treasury that holds moneys of a **public** university [*with a governing board*] pursuant to an agreement entered into under ORS 352.135 may be a borrowing fund for purposes of ORS 293.205 to 293.225 and may borrow from the Oregon Short Term Fund established in ORS 293.728 or other state funds. Subject to the limitations of Article XI, section 7, of the Oregon Constitution, a fund or account in the State Treasury that holds moneys of a **public** university [*with a governing board*] pursuant to an agreement entered into under ORS 352.135 may be a lending fund for purposes of ORS 293.205 to 293.225 and may lend moneys to other state funds. The **public** university [*with a governing board*] that has entered into an agreement with the State Treasurer under ORS 352.135 is the relevant state agency or department for whom the State Treasurer may transfer funds or with whom the State Treasurer may enter into an agreement pursuant to ORS 293.205 to 293.225.

(c) Notwithstanding any other provision of law, ORS 293.169, 293.171, 293.353, 293.406, 293.450, 293.455, 293.460 and 293.465 to 293.485 apply to moneys received, held, kept, managed or invested by the State Treasurer for a **public** university **listed in ORS 352.002** [*with a governing board*] pursuant to an agreement entered into under ORS 352.135 and to checks, warrants or electronic funds transfers from or to any funds or accounts established pursuant to this subsection. For purposes of ORS 293.169, 293.171, 293.353, 293.406, 293.450, 293.455, 293.460 and 293.465 to 293.485:

(A) The **public** university [*with a governing board*] that has entered into an agreement with the State Treasurer under ORS 352.135 is the relevant state agency or department; and

(B) The personnel of the **public** university [*with a governing board*] authorized to provide instructions to the State Treasurer are the relevant state officers.

Passed by Senate April 24, 2017

Received by Governor:

Repassed by Senate June 12, 2017

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Approved:

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Lori L. Brocker, Secretary of Senate

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

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Peter Courtney, President of Senate

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Kate Brown, Governor

Passed by House June 1, 2017

Filed in Office of Secretary of State:

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

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Tina Kotek, Speaker of House

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Dennis Richardson, Secretary of State