

# TITLE 31

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### Chapter 366

#### State Highways

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2. The second part of the document addresses the issue of proper documentation. It states that all receipts and invoices must be properly filed and indexed. This not only facilitates the audit process but also helps in the identification and correction of any missing or incomplete records. The document stresses that the responsibility for maintaining these records lies with the individual or department responsible for the transactions.

3. The third part of the document discusses the importance of timely reporting. It highlights that delays in reporting can obscure errors and make it more difficult to identify the source of any discrepancies. The text advises that all transactions should be reported as soon as they occur to ensure the accuracy and completeness of the financial data.

4. The fourth part of the document focuses on the importance of transparency and communication. It encourages open communication between all parties involved in the financial process. This includes providing clear explanations for any unusual or large transactions and being responsive to inquiries from auditors. The document notes that transparency is essential for building trust and ensuring the credibility of the financial reporting process.

5. The fifth part of the document discusses the importance of regular reviews and reconciliations. It states that regular reviews of accounts and reconciliations of bank statements and other external records are necessary to identify and correct errors before they become more significant. The text advises that these reviews should be conducted on a consistent basis and that any discrepancies should be investigated and resolved promptly.

6. The sixth part of the document addresses the importance of staying up-to-date on changes in accounting standards and regulations. It notes that the financial reporting environment is constantly evolving, and it is essential for all parties involved to stay informed of the latest requirements. The document suggests that regular training and education in accounting and financial reporting are necessary to ensure compliance with the most current standards and regulations.

7. The seventh part of the document discusses the importance of maintaining a strong internal control system. It states that a robust internal control system is essential for preventing and detecting errors and fraud. The text highlights that this system should include clear policies and procedures, segregation of duties, and regular monitoring and evaluation. The document notes that a strong internal control system is a key factor in ensuring the reliability of the financial reporting process.

8. The eighth part of the document addresses the importance of maintaining accurate and complete records of all financial transactions. It states that this is a fundamental requirement for any organization and is essential for providing a clear and accurate picture of the organization's financial performance. The text notes that any gaps or omissions in the records can lead to significant errors in the financial statements and may result in the disallowance of certain expenses.

9. The ninth part of the document discusses the importance of providing clear and concise explanations for all transactions. It states that auditors need to be able to understand the nature and purpose of every transaction, and it is essential for all parties involved to provide clear and concise explanations. The text notes that this is particularly important for large or unusual transactions and for transactions that involve complex accounting treatments.

10. The tenth part of the document addresses the importance of maintaining a strong relationship with the auditors. It states that a strong relationship is essential for ensuring a smooth and efficient audit process. The text notes that this relationship should be based on mutual respect, open communication, and a commitment to providing accurate and complete information. The document suggests that regular communication and collaboration with the auditors can help to identify and resolve any issues or concerns in a timely and effective manner.

**GENERAL PROVISIONS**

**366.005 Chapter definitions.** As used in this chapter, unless the context requires otherwise

(1) "Assistant highway engineer" means any assistant state highway engineer

(2) "Commission" means the State Highway Commission

(3) "Federal funds" means any funds provided by the United States for cooperative road work with states, counties, cities or other municipal subdivisions of the state under the Act of July 11, 1916, 39 Stat 355, entitled "An act to provide that the United States shall aid the states in the construction of rural post roads and for other purposes," and other Acts of Congress heretofore or hereafter enacted for similar purposes

(4) "Foundation" means the Oregon Arboretum and Botanical Foundation

(5) "Garden" means the arboretum and botanical garden

(6) "Highway engineer" means the State Highway Engineer

(7) "Highway fund" means the State Highway Fund

(8) "Highway funds" means the moneys and revenues of which the highway fund consists, as provided in ORS 366 505

(9) "State highway" means any road or highway designated as such by law or by the State Highway Commission pursuant to law and includes both primary and secondary state highways

(10) "This Act" means ORS 276 556, 366 105 to 366 170, subsections (1) to (4) of ORS 366 205, ORS 366 210 to 366 295, 366 305 to 366 315, subsections (1) and (2) of ORS 366 320, ORS 366 325, 366 330, 366 340, 366 345, 366 360 to 366.390, 366 395, subsections (1) and (2) of ORS 366 400, ORS 366 405, 366 415 to 366 455, 366 470 to 366 485, 366 505, 366 705 to 366 720, subsection (1) of ORS 366 770, ORS 366 775, 366 780, 373 010 to 373 040

**366.010 "County court" and "road" or "highway" defined.** As used in this Act

(1) "County court" includes all county officers or boards charged by law with the duty of building, constructing, repairing, altering or maintaining roads or bridges, or both

(2) "Road" or "highway" includes necessary bridges and culverts, and city streets, subject to such restrictions and limitations as are provided

**366.015 "Hard surfaced highways" defined.** As used in all highway Acts, "hard surfaced highways" means any state road or highway constructed and surfaced or to be constructed and surfaced with such materials or combinations of materials as to produce what is commonly known or styled "pavement," and not such construction or surfacing as is commonly known as "macadam."

**366.020 to 366.100** [Reserved for expansion]

**ORGANIZATION OF STATE HIGHWAY DEPARTMENT**

**366.105 Highway department.** The State Highway Department shall consist of the State Highway Commission, the State Highway Engineer, the Assistant State Highway Engineer, the Chief Counsel, the Secretary and all their employes or assistants

**366.110 State Highway Commission; members; expenses.** (1) The State Highway Commission, is continued in existence It shall consist of three members to be appointed by the Governor, not more than one from any Congressional District of the state, to hold office for a period of three years Before the expiration of the term of a commissioner the Governor shall appoint his successor to assume his duties on April 1 next following. In case of a vacancy for any cause the Governor shall make an appointment to become immediately effective for the unexpired term

(2) Each member of the commission shall be allowed his actual traveling and other necessary expenses incurred in performing the duties of his office

**366.115 Bond of highway commissioner.** Each member of the commission shall give a good and sufficient bond to the state in the sum of \$5,000, conditioned upon the faithful performance of the duties of his office, such bond to be approved by the Governor and the Attorney General, and the premium to be paid out of highway funds

**366.120 Chairman of commission; seal; meetings.** (1) The commission shall select one of its members as chairman, who shall preside at all meetings of the commission. In the absence of the chairman some other member of the commission may serve as chairman

(2) The commission may provide for an

official seal, which shall be in the custody of the commission's secretary.

(3) The commission shall meet once each month and at such other times and at such places as the commission may by order provide, at which meetings the commission may transact such business as may properly come before it. The commission may also meet upon call of the chairman

**366.125 Quorum to transact business.** A majority of the commission shall constitute a quorum for the transaction of business, and the act or decision of any two of the commissioners shall be the act or decision of the commission. No vacancy shall impair the right of the remaining commissioners to exercise all the powers of the commission, except that in the selection, vacation or abandonment of state highways the decision of the commission must be unanimous, and in case the commissioners are unable to agree the Governor shall have the right to vote as a member of the commission.

**366.130 Chief counsel and assistants.** (1) The commission shall, with the approval of the Attorney General, appoint a chief counsel, who shall serve as the legal adviser to the commission, appear for and represent the commission in all matters requiring the service of an attorney and supervise the purchase or acquisition of real property required in connection with the accomplishment of the purposes of this Act

(2) The commission also shall, with the approval of the Attorney General, appoint an assistant counsel. Under the direction of or in the absence of the chief counsel the assistant counsel shall have full authority to perform any duty required or permitted by law to be performed by the chief counsel.

(3) The chief counsel and assistant counsel shall serve at the pleasure of the commission but shall not serve for a period in excess of four years without reappointment.

(4) The chief counsel and assistant counsel shall receive annual salaries to be fixed by the commission, payable in monthly installments, together with actual traveling and other necessary expenses incurred in the performance of their official duties

(5) The commission may, upon recommendation of the chief counsel, authorize the appointment or employment of such other assistants and other help as in his opinion may be necessary. Subject to any applicable provision of the State Civil Service Law, the

chief counsel may, with the approval of the commission, fix the compensation and salaries to be paid such assistants or help as he may employ and may provide for their necessary traveling expenses.

**366.135 Secretary and assistant secretary of commission.** (1) The commission shall appoint a secretary, and may appoint an assistant secretary, qualified to perform the duties of such offices

(2) The secretary and assistant secretary shall receive annual salaries to be fixed by the commission and paid in monthly installments. The secretary and assistant secretary also shall receive an allowance for traveling and other expenses incurred in the performance of their duties.

(3) The secretary shall:

(a) Keep complete and accurate records of all the meetings, transactions and business of the commission

(b) Keep in his custody and control all the records, contracts, documents, minutes and other papers or instruments of the commission.

(c) Keep in his office the official seal of the commission and may impress it upon all contracts and such other papers or documents on which such seal may be appropriate or necessary.

(d) Perform such other functions or duties as may naturally and normally come within the scope of the office of the secretary to the commission or as may be required of him by the commission.

(4) The secretary may, with the approval of the commission, prepare on request of any interested party copies of any records, documents, contracts or other papers in his custody, and may certify to the same, but he shall not permit the originals to be taken from his office by any other person than himself or some other member of the highway department

(5) Under the direction of or in the absence of the secretary, the assistant secretary shall have full authority to perform any duty required or permitted by law to be performed by the secretary. The secretary and assistant secretary shall serve at the pleasure of the commission but shall not serve for a period in excess of four years without reappointment. [Amended by 1953 c 129 §2]

**366.140 Auditor and assistants.** (1) The commission shall appoint an auditor who shall be charged with the duty of handling the fiscal affairs of the commission. The au-



ditor shall be qualified for such position. The auditor shall serve at the pleasure of the commission but shall not serve for a period in excess of four years without reappointment

(2) The commission may authorize the employment by the auditor of such assistants and other help as may be necessary for the proper and efficient performance of all the duties and obligations of the position

(3) The commission shall fix the salaries of the auditor and his assistants and other help and may prescribe their duties and functions

(4) Before entering upon the duties of his position, the auditor shall give to the state a fidelity bond executed by a corporate insurance company duly licensed to transact the business of surety within this state in such penal sum, not less than \$50,000, as the commission shall determine. The bond shall be conditioned for the faithful discharge by the auditor of the duties of his position, for the faithful performance by all persons employed by him of their duties and trusts therein and for the transfer and delivery to his successor, or to any other person designated by the commission, of all moneys, books, papers, records and other articles or effects belonging to the position

(5) This section is subject to any applicable provision of the State Civil Service Law. [Amended by 1953 c 129 §2]

**366.145 State Highway Engineer and assistants; appointment, tenure, compensation, duties.** (1) The commission shall appoint a highway engineer, who shall be known as the State Highway Engineer, and one or more assistant highway engineers, each of whom shall be known as Assistant State Highway Engineer. The highway engineer and assistant highway engineers shall be competent civil engineers and shall be qualified by technical training as well as by practical experience in highway engineering.

(2) The highway engineer and assistant highway engineers shall hold office during the pleasure of the commission, but the highway engineer shall not hold office for a period in excess of four years without reappointment.

(3) The highway engineer and assistant highway engineers shall each receive an annual salary to be fixed by the commission, payable in monthly instalments, together with such actual traveling and other neces-

sary expenses as may be incurred in the discharge of official duties.

(4) The highway engineer and the assistant highway engineers shall each, before entering upon their respective duties, take and subscribe the usual official oath

(5) Assistant highway engineers shall perform such duties as may be assigned to them by the commission and shall, in the absence of the highway engineer, have full authority to perform any duty required or permitted by law to be performed by him

(6) The commission may authorize the employment by the highway engineer of such staff engineers, engineering and technical assistants and such other help as in his judgment may be necessary, whose compensation and travel allowance and other expenses shall be fixed by the highway engineer with the approval of the commission.

(7) This section is subject to any applicable provision of the State Civil Service Law

**366.150 Bond of highway engineer.** The highway engineer shall furnish a fidelity bond executed by a company duly licensed to transact the business of surety within this state, in such penal sum, not less than \$200,000, as the commission shall determine. The bond shall be conditioned for the faithful discharge by the highway engineer of the duties of his office, for the faithful performance by all persons employed by him of their duties and trusts therein and for the transfer and delivery to his successor in office, or to any other person authorized by law to receive the same, of all moneys, books, papers, records and other articles and effects belonging to his office. The premium for the bond shall be paid out of highway funds

**366.155 Duties and powers of highway engineer.** (1) The State Highway Engineer, among other things, shall

(a) So far as practicable, compile statistics relative to the public highways of the state and collect all information in regard thereto which he may deem important or of value in connection with highway location, construction, maintenance, improvement or operation

(b) Keep on file in the office of the commission copies of all plans, specifications and estimates prepared by his office

(c) Make all necessary surveys for the location or relocation of highways and cause

to be made and kept in his office a general highway plan of the state.

(d) Collect and compile information and statistics relative to the mileage, character and condition of highways and bridges in the different counties in the state, both with respect to state and county highways.

(e) Under the direction of the commission, investigate and determine the methods of road construction best adapted in the various counties or sections of the state, giving due regard to the topography, natural character and availability of road-building materials and the cost of building and maintaining roads under this Act

(f) Prepare surveys, plans, specifications and estimates for the construction, reconstruction, improvement, maintenance and repair of any bridge, street, road and highway under the direction of the commission. In advertising for bids on any such project the commission shall invite bids in conformity with such plans and specifications

(g) Keep an accurate and detailed account of all moneys expended in the location, survey, construction, reconstruction, improvement, maintenance or operation of highways, roads and streets, including costs for rights of way, under this Act, and keep a record of the number of miles so located, constructed, maintained or operated in each county, the date of construction, the width of such highways and the cost per mile for the construction and maintenance of the highways

(h) Install and operate a simple but adequate accounting system in order that all expenditures and costs may be classified and that a proper record may be maintained

(i) Prepare proper and correct statements or vouchers to make possible partial payments on all contracts for highway projects based upon estimates prepared by him or under his direction, and submit them to the commission for approval.

(j) Prepare proper vouchers covering claims for all salaries and expenses of his office and other expenditures authorized by the commission. Such claims as may be approved by the commission shall be indorsed by it and be presented to the Secretary of State in the same manner as other claims against the state

(k) Act in an advisory capacity to, and be consulted by, the county courts of the different counties at all reasonable times in matters pertaining to highway construction, location or maintenance. Upon request of the

county court of any county he shall cooperate with the county officials, assist in matters of road improvement, road construction or maintenance, prepare and furnish plans and specifications for any proposed road project in such county upon being furnished the necessary information and data to enable him to do so. Such specifications shall be so furnished free of cost to the county. He also may aid counties in the making of surveys and the doing of other things in connection with the location, construction and improvement of county roads

(L) Prepare and submit to the commission on or about December 31 of each year an annual report in which he shall set forth all that has been done by the State Highway Department during the year just ending, which report shall include all funds received, the source or sources from which received, the expenditure and disbursement of all funds and the purposes for which they were expended. The report shall contain a statement of the roads, highways or streets constructed, reconstructed and improved during the period, together with a statement showing in a general way the status of the highway system

(2) The commission may, in its discretion, relieve the highway engineer of such portions of his duties and responsibilities with respect to audits, accounting procedures and other like duties and responsibilities provided for in ORS 366.155 to 366.165 as the commission deems advisable. The commission may require such portion of such duties to be performed and such responsibilities to be assumed by the commission's auditor appointed under ORS 366.140.

**366.160 Preparation of payroll by highway engineer; payroll procedure.** (1) The highway engineer shall prepare a monthly payroll in which he shall set forth the name of each employe, the rate of salary or wages, the capacity in which each person is employed and the amount due each employe. The payroll shall be verified by the highway engineer or assistant highway engineer and submitted to the commission for approval

(2) When the payroll has been approved by at least a majority of the commissioners, submitted to the Secretary of State for audit and a warrant has been drawn by the Secretary of State on the State Treasurer in favor of the highway engineer for the aggregate amount allowed, the highway engineer shall deposit the warrant in a reputable bank, or

may deposit the warrant with the State Treasurer, to be held in a special account against which the highway engineer may draw checks. Immediately thereafter the highway engineer shall pay the moneys received on the warrant to the several parties entitled thereto

(3) Payroll checks issued by the highway engineer, after having been negotiated and paid, shall be filed in the office of the commission at Salem, Oregon, and shall constitute a full receipt of the payment for services rendered.

(4) In lieu of the procedure set forth in this section, for the purpose of expediting the payment of salaries and wages, the highway engineer may draw the payroll checks against the emergency or revolving fund provided in ORS 366 165.

**366.165 Emergency or revolving fund of highway engineer.** (1) The highway engineer may, with the approval of the commission, request, in writing, the Secretary of State to, and when so requested the Secretary of State shall, draw a warrant on any fund belonging to the state highway funds in favor of the highway engineer in the sum of \$1 million, which sum shall be used by the highway engineer as an emergency or revolving fund.

(2) The emergency or revolving fund shall be deposited with the State Treasurer. The fund shall be at the disposal of the highway engineer and may be used by him

(a) To pay salaries, travel expenses, compensation or payments for real property purchased or otherwise acquired, and emergency claims; or

(b) With the approval of the commission, to secure or take advantage of trade discounts

(3) All vouchers for claims paid from the fund shall be approved by the commission and audited by the Secretary of State. When claims are so approved and audited, warrants covering them shall be drawn in favor of the highway engineer and shall be used by the highway engineer to reimburse the fund

(4) The highway engineer shall render written monthly reports to the commission covering expenditures from the emergency or revolving fund during the preceding month and show the status of the fund at the time of the report.

**366.170 Office hours and offices of commission.** (1) The offices of the commis-

sion shall be kept open at such times as the business of the commission and the convenience of the public require.

(2) The principal office of the commission shall be in Salem, Oregon, and shall be the repository of all the commission's records. The commission shall provide necessary office accommodations, furniture and equipment for the conduct of its work and for the transaction of business incident to the accomplishment of the purposes of this Act.

**366.175 Authority to establish parks division.** The commission may establish under its jurisdiction and control a division to be known as the State Parks Division.

**366.180 State Parks Superintendent and assistants.** (1) The commission may appoint a superintendent of state parks, who shall be called State Parks Superintendent, and who shall hold office during the pleasure of the commission.

(2) The State Parks Superintendent shall receive an annual salary to be fixed by the commission, payable in monthly instalments, together with such actual traveling and other necessary expenses as may be incurred in the discharge of his official duties

(3) The commission may employ such engineers, landscape architects, technical assistants and such other help as, in its judgment, may be necessary for the proper and efficient administration of the parks division. The compensation, travel allowance and other expenses for such staff and other help shall be fixed by the commission

(4) This section is subject to any applicable provision of the State Civil Service Law

**366.185 to 366.200** [Reserved for expansion]

## POWERS AND DUTIES OF STATE HIGHWAY COMMISSION

**366.205 General power and authority of commission.** (1) The commission shall determine and adopt the general policy and decide all questions relating to the administration of the highway department.

(2) The commission has general supervision and control over all matters pertaining to the selection, establishment, location, construction, improvement, maintenance, operation and administration of state high-

ways, the letting of contracts therefor, the selection of materials to be used therein and all other matters and things deemed necessary or proper for the accomplishment of the purposes of this Act.

(3) The commission has complete jurisdiction and authority over all state parks, recreational grounds or places acquired by the state for recreational purposes.

(4) The commission has full power to carry out the provisions of and may make such rules and regulations as it deems necessary for the accomplishment of the purposes of this Act

(5) The commission shall enter into such contracts, appoint such officials and do any other act or thing necessary to fully meet the requirements of subsection (3) of ORS 366.400, ORS 366.410, 366 510 and subsection (1) of ORS 366.515

**366.210 Limit on administration and engineering expenditure.** The total cost in any one year for administration and engineering of construction shall not exceed 10 percent of the total funds available to the commission during that year for its work

**366.215 Creation of state highways.** The commission may select, establish, adopt, lay out, locate, alter, relocate, change and realign primary and secondary state highways.

**366.220 Creation of state highway system.** (1) The commission may select, establish, designate, construct, maintain, operate and improve or cause to be constructed, maintained, operated and improved a system of state highways within the state, which highways shall be designated by name and by the point of beginning and the terminus thereof. The system of state highways shall, in addition to such other highways as may from time to time be selected and adopted by the highway commission pursuant to law and all highways adopted and classified as secondary state highways which are subject to and qualified for construction, improvement, betterment and maintenance as are other state highways, include those designated in ORS 366.225 to 366 284.

(2) The commission may classify and reclassify the highways comprising the state highway system as primary and secondary highways Secondary highways may consist of newly established highways, reclassified primary highways and county roads selected

pursuant to ORS 366 290. [Amended by 1953 c.252 §2]

**366.225 Pacific Highway East.** The Pacific Highway East runs from the Oregon-Washington state line north of Portland, southerly via Portland, Milwaukie, Oregon City, Salem and Albany to a junction with the Pacific Highway and Pacific Highway West at or near Junction City. [Amended by 1953 c.252 §2]

**366.226 Pacific Highway West.** The Pacific Highway West runs from a junction with Pacific Highway East, north of Portland, southerly via Portland, Newberg, McMinnville, Monmouth, Corvallis and Junction City to a junction with the Pacific Highway and Pacific Highway East at or near Junction City [Amended by 1953 c.252 §2]

**366.227 Pacific Highway.** The Pacific Highway runs from a junction with the Pacific Highway East and Pacific Highway West at or near Junction City, southerly via Roseburg, Grants Pass, Medford and Ashland to the Oregon-California state line. [Amended by 1953 c 252 §2]

**366.228 Columbia River Highway.** The Columbia River Highway runs from a junction with the Oregon Coast Highway in Astoria, easterly via Rainier, Portland, Hood River, The Dalles, Arlington and Umatilla to the Oregon-Washington state line near Wallula, Washington

**366.229 Oswego Highway.** The Oswego Highway runs from a junction with the Mt Hood Highway in Portland, southerly via Oswego to a junction with the Pacific Highway East in Oregon City

**366.230 The Dalles-California Highway.** The Dalles-California Highway runs from a junction with the Columbia River Highway at or near The Dalles southerly via Maupin, Madras, Redmond, Bend, Klamath Falls and Midland to the Oregon-California state line. [Amended by 1953 c.252 §2]

**366.231 John Day Highway.** The John Day Highway runs from a junction with the Columbia River Highway at or near Arlington, southeasterly via Condon, Fossil, Dayville and Prairie City to a junction with the Central Oregon Highway at Vale, including a connection to Austin

**366.232 Section of Old Oregon Trail.** A section of the Old Oregon Trail runs from a

junction with the Columbia River Highway at or near Boardman, southeasterly via Pendleton, La Grande, Baker and Huntington to the Oregon-Idaho state line at or near Nyssa, including connecting routes to the Oregon-Idaho state line from points near Weiser, Payette and Ontario. Nothing in this section shall in any way repeal, amend or change ORS 366.905. [Amended by 1953 c 252 §2]

**366.233 Central Oregon Highway.** The Central Oregon Highway runs from a junction with The Dalles-California Highway in Bend easterly via Burns, Juntura, Harper and Vale to a junction with the Old Oregon Trail south and west of Ontario [Amended by 1953 c.252 §2]

**366.234 Heppner Highway.** The Heppner Highway runs from a junction with the Columbia River Highway at Heppner Junction, approximately 11 miles east of Arlington, southeasterly via Ione and Heppner to a junction with the Pendleton-John Day Highway west of Pilot Rock.

**366.235 Oregon Coast Highway.** The Oregon Coast Highway runs from a junction with the Columbia River Highway in Astoria, southerly via Seaside, Cannon Beach, Rockaway, Tillamook, Otis, Newport, Florence, Coos Bay, Bandon and Gold Beach to the Oregon-California state line

**366.236 Wallowa Lake Highway.** The Wallowa Lake Highway runs from a junction with the Old Oregon Trail in La Grande, easterly via Elgin and Enterprise into Joseph.

**366.237 Enterprise-Lewiston Highway.** The Enterprise-Lewiston Highway runs from a junction with the Wallowa Lake Highway in Enterprise, north via the vicinity of Flora to the Oregon-Washington state line, including a connection to Flora

**366.238 Baker-Homestead Highway.** The Baker-Homestead Highway runs from a junction with the Old Oregon Trail in Baker, easterly via Richland, Robinette and Homestead to the Oregon-Idaho state line. [Amended by 1953 c.252 §2]

**366.239 Baker-Unity Highway.** The Baker-Unity Highway runs from a junction with the Old Oregon Trail in Baker, southwesterly via Salisbury and Hereford to a junction with the John Day Highway near Unity. [Amended by 1953 c.252 §2]

**366.240 Crooked River Highway.** The Crooked River Highway runs from a junction with the Ochoco Highway in Prineville, southerly via Crooked River and Bear Creek canyons to a junction with the Central Oregon Highway west of Brothers.

**366.241 McKenzie Highway.** The McKenzie Highway runs from a junction with the Pacific Highway at or near Eugene, easterly via Springfield, McKenzie Pass and Sisters to a junction with The Dalles-California Highway in Redmond [Amended by 1953 c.252 §2]

**366.242 Santiam Highway.** The Santiam Highway runs from a junction with the Pacific Highway East in Albany, easterly via Lebanon and Cascadia to a junction with the McKenzie Highway at or near Sisters [Amended by 1953 c.252 §2]

**366.243 McKenzie-Bend Highway.** The McKenzie-Bend Highway runs from a junction with the McKenzie Highway east of Sisters, southeasterly to a junction with The Dalles-California Highway north of Bend.

**366.244 Willamette Highway.** The Willamette Highway runs from a junction with the Pacific Highway at or near Goshen, southeasterly via Oakridge and Odell Lake to a junction with The Dalles-California Highway south of Crescent. [Amended by 1953 c.252 §2]

**366.245 Fremont Highway.** The Fremont Highway runs from a junction with The Dalles-California Highway south of Lapine, southeasterly via Silver Lake, Paisley and Lakeview to the Oregon-California state line.

**366.246 Klamath Falls-Lakeview Highway.** The Klamath Falls-Lakeview Highway runs from a junction with The Dalles-California Highway in Klamath Falls, easterly via Dairy, Beatty and Bly to a junction with the Fremont Highway in Lakeview.

**366.247 Green Springs Highway.** The Green Springs Highway runs from a junction with the Pacific Highway in Ashland, easterly via Pinehurst and Keno to a junction with The Dalles-California Highway at or near Klamath Falls [Amended by 1953 c.252 §2]

**366.248 Crater Lake Highway.** The Crater Lake Highway runs from a junction with the Pacific Highway at or near Medford,

northeasterly via Trail and Crater Lake National Park, thence southeasterly to a junction with The Dalles-California Highway, south of Chiloquin [Amended by 1953 c 252 §2]

**366.249 Dairy-Bonanza Highway.** The Dairy-Bonanza Highway runs from a junction with the Klamath Falls-Lakeview Highway at Dairy, easterly into Bonanza

**366.250 Burns-Crane Highway.** The Burns-Crane Highway runs from a junction with the Central Oregon Highway in Burns, southeasterly into Crane

**366.251 Redwood Highway.** The Redwood Highway runs from a junction with the Pacific Highway at or near Grants Pass, southwesterly via Kerby to the Oregon-California state line. [Amended by 1953 c 252 §2]

**366.252 Mt. Hood Highway.** The Mt Hood Highway runs from a junction with the Pacific Highway West in Portland, easterly via Gresham, Sandy and Government Camp, and thence northerly to a junction with the Columbia River Highway east of Hood River

**366.253 Alsea Highway.** The Alsea Highway runs from a junction with the Oregon Coast Highway in Waldport, easterly via Alsea River valley to a junction with the Corvallis-Newport Highway west of Philomath

**366.254 Pendleton-John Day Highway.** The Pendleton-John Day Highway runs from a junction with the Old Oregon Trail in Pendleton, southerly via Pilot Rock, Dale and Long Creek to a junction with the John Day Highway at or near John Day.

**366.255 Tualatin Valley Highway.** The Tualatin Valley Highway runs from a junction with the Sunset Highway west of Portland, westerly via Beaverton, Hillsboro and Forest Grove, and thence southerly via Carlton to a junction with the Pacific Highway West north of McMinnville [Amended by 1953 c 252 §2]

**366.256 Willamina-Salem Highway.** The Willamina-Salem Highway runs from a junction with the Salmon River Highway west of Willamina, easterly via Rickreall to a junction with the Pacific Highway East in Salem [Amended by 1953 c 252 §2]

**366.257 Albany-Corvallis Highway.** The Albany-Corvallis Highway runs from a junc-

tion with the Pacific Highway East in Albany, westerly, crossing the Willamette River at Albany, to a junction with the Pacific Highway West at or near Corvallis [Amended by 1953 c 252 §2]

**366.258 Three Rivers Highway.** The Three Rivers Highway runs from a junction with the Oregon Coast Highway at Hebo, southeasterly via Dolph and Grand Ronde Agency to a junction with the Salmon River Highway at Valley Junction

**366.259 Corvallis-Newport Highway.** The Corvallis-Newport Highway runs from a junction with the Oregon Coast Highway in Newport, easterly via Toledo, Eddyville and Philomath to a junction with the Pacific Highway West in Corvallis.

**366.260 Siuslaw Highway.** The Siuslaw Highway runs from a junction with the Oregon Coast Highway at or near Florence, easterly via Mapleton and Blachly to a junction with the Pacific Highway south of Junction City [Amended by 1953 c 252 §2]

**366.261 Coos Bay-Roseburg Highway.** The Coos Bay-Roseburg Highway runs from a junction with the Oregon Coast Highway in Coquille, easterly via Myrtle Point, Remote and Camas Valley to a junction with the Pacific Highway south of Roseburg. [Amended by 1953 c 252 §2]

**366.262 Pendleton-Cold Springs Highway.** The Pendleton-Cold Springs Highway runs from a junction with the Old Oregon Trail in Pendleton, northwesterly through an intersection with the Columbia River Highway into Cold Springs

**366.263 Wilson River Highway.** The Wilson River Highway runs from a junction with the Oregon Coast Highway in Tillamook, easterly via Wilson River Valley and Glenwood to a junction with the Sunset Highway near North Plains [Amended by 1953 c 252 §2]

**366.264 Oregon Caves Highway.** The Oregon Caves Highway runs from a junction with the Redwood Highway south of Kerby, easterly to the Oregon Caves.

**366.265 Salmon River Highway.** The Salmon River Highway runs from a junction with the Oregon Coast Highway at or near Otis, easterly via Rose Lodge, Grand Ronde, Willamina and Sheridan to a junction with the Pacific Highway West south of McMinnville [Amended by 1953 c.252 §2]

**366.266 Beaverton-Hillsdale Highway.** The Beaverton-Hillsdale Highway runs from a junction with the Tualatin Valley Highway in Beaverton, easterly via Hillsdale to a junction with the Pacific Highway West in Portland

**366.267 Ochoco Highway.** The Ochoco Highway runs from a junction with The Dalles-California Highway in Redmond, easterly via Prineville and Mitchell to a junction with the John Day Highway north of Dayville.

**366.268 Sherman Highway.** The Sherman Highway runs from a junction with the Columbia River Highway near Biggs, southerly via Moro, Grass Valley and Shaniko to a junction with The Dalles-California Highway at the head of Cow Canyon

**366.269 Monmouth-Independence Highway.** The Monmouth-Independence Highway runs from a junction with the Pacific Highway West in Monmouth, easterly into Independence

**366.270 Wapinitia Highway.** The Wapinitia Highway runs from a junction with the Warm Springs Highway south of Government Camp, easterly to a junction with The Dalles-California Highway north of Maupin [Amended by 1953 c 252 §2]

**366.271 Umpqua Highway.** The Umpqua Highway runs from a junction with the Oregon Coast Highway in Reedsport, easterly via Scottsburg and Elkton to a junction with the Pacific Highway at or near Anlauf [Amended by 1953 c 252 §2]

**366.272 Necanicum Highway.** The Necanicum Highway runs from a junction with the Sunset Highway at Necanicum Junction, southerly via Mohler to a junction with the Oregon Coast Highway south of Wheeler [Amended by 1953 c 252 §2]

**366.273 Sunset Highway.** The Sunset Highway runs from a junction with the Oregon Coast Highway at Cannon Beach Junction south of Seaside, easterly via Necanicum Junction and vicinities of Elsie and Manning to a junction with the Pacific Highway West in Portland [Amended by 1953 c 252 §2]

**366.274 John Day-Burns Highway.** The John Day-Burns Highway runs from a junction with the John Day Highway in John Day, southerly via Canyon City and Silvies to a junction with the Central Oregon Highway east of Burns.

**366.275 Lakeview-Burns Highway.** The Lakeview-Burns Highway runs from a junction with the Fremont Highway at Valley Falls, northeasterly via Alkali Lake and Wagontire to a junction with the Central Oregon Highway approximately 27 miles west of Burns

**366.276 Klamath Falls-Malin Highway.** The Klamath Falls-Malin Highway runs from a junction with The Dalles-California Highway at or near Klamath Falls, southeasterly via Merrill and Malin to the Oregon-California state line [Amended by 1953 c 252 §2]

**366.277 Wilsonville-Hubbard Highway.** The Wilsonville-Hubbard Highway runs from a junction with the Portland-Salem Expressway south of the Willamette River near Wilsonville, southerly to a junction with the Pacific Highway East north of Hubbard [Amended by 1953 c.252 §2]

**366.278 Oregon-Washington Highway.** The Oregon-Washington Highway runs from a junction with the Old Oregon Trail in Pendleton, northeasterly via Adams, Athena, Weston and Milton-Freewater to the Oregon-Washington state line. [Amended by 1953 c.252 §2]

**366.279 Warm Springs Highway.** The Warm Springs Highway runs from a junction with the Mt Hood Highway east of Government Camp, southeasterly via Warm Springs to a junction with The Dalles-California Highway at or near Madras [1953 c 252 §3]

**366.280 Umatilla-Stanfield Highway.** The Umatilla-Stanfield Highway runs from a junction with the Columbia River Highway east of Umatilla, southeasterly via Hermiston to a junction with the Old Oregon Trail at or near Stanfield [1953 c 252 §4]

**366.281 Halfway Highway.** The Halfway Highway runs from a junction with the Baker-Homestead Highway north of Robinette, northerly into Halfway. [1953 c 252 §5]

**366.282 T. H. Banfield Expressway.** The T H Banfield Expressway runs from a junction with the Pacific Highway West in Portland, easterly via Sullivan Gulch to a junction with the Columbia River Highway at or near Sundial [1953 c 252 §6]

**366.283 Portland-Salem Expressway.** The Portland-Salem Expressway runs from a junction with the Harbor Drive Section of

the Pacific Highway West in Portland, southerly via Wilsonville and by-passing Salem on the east to a junction with the Pacific Highway East south of Salem. [1953 c.252 §7]

**366.284 Dallas-Rickreall Highway.** The Dallas-Rickreall Highway runs from the intersection of Main and Court Streets in Dallas, easterly to a junction with the Willamina-Salem Highway at or near Rickreall. [1953 c.252 §8]

**366.285 Location of highways when in doubt; procedure.** (1) The commission may locate, relocate, define, establish, reestablish and confirm the extension, location and establishment of primary and secondary state highways where:

(a) By reason of loss or destruction of field notes of the original surveys made by the county when such roads or highways were laid out and established by the county, defective or incomplete surveys or records, or destroyed monuments or marks, the exact original location and boundary cannot be found or ascertained.

(b) For any reason the exact location and right of way lines are in doubt or are challenged.

(2) In exercising the authority under subsection (1) of this section the procedure afforded the county with respect to county roads under ORS 368.585 to 368.610 may be followed by the commission.

**366.290 Secondary state highways.** (1) The commission may select, locate, establish, designate, improve and maintain out of the highway fund a system of secondary state highways, and for that purpose may, by mutual agreement with the county courts of the several counties, select market roads or other county roads or available locations or routes. By an appropriate order entered in its records the commission may designate and adopt such roads as secondary state highways. Thereafter the construction, improvement, maintenance and repair of such roads shall be under the jurisdiction of the commission.

(2) In the selection of highways or roads to comprise the system of secondary state highways the commission shall give consideration to and shall select such market or other county roads or routes as will contribute to and best promote the completion of an adequate and connected system of secondary highways, intercounty in character

but correlated with the state highway system.

(3) With the written consent of the county court of the county in which a particular highway or part thereof is located, the commission may, when in its opinion the interests of the state will be best served, eliminate from the system of secondary highways any road or highway or part thereof. Thereafter the road or highway or part thereof eliminated shall become a county road or highway, and the construction, repair, maintenance or improvement, and jurisdiction over such highway shall be exclusively under the county court of the county in which such highway or road is located.

(4) The construction, maintenance and repair of secondary state highways shall be carried on at the sole expense of the state or at the expense of the state and the county by mutual agreement between the commission and the county court of the county in which any particular secondary state highway is located. [Amended by 1953 c.252 §2]

**366.295 Relocation of highways.** The commission may make such changes in the location of highways designated by the legislature, or such highways as are designated and adopted by the commission, as in the judgment and discretion of the commission will result in better alignment, more advantageous and economical highway operation and maintenance, or as will contribute to and afford a more serviceable system of state highways than is possible under the present statutory location.

**366.300 Treatment of sections eliminated when highway relocated.** (1) Whenever the commission relocates or realigns a state highway or a section thereof, and by reason of such relocation or realignment there is eliminated from the original route of the highway a section thereof, the eliminated section shall, if needed for the service of persons living thereon or for a community served thereby, be maintained by the commission at state expense, or by the county or by the state and the county on such terms and conditions as may be agreed upon.

(2) If the abandoned sections are merely parts of the old right of way which are no longer needed for right of way purposes, then the abandoned sections shall, except as otherwise provided in this section, revert to and title thereto shall vest in the abutting owner or owners.

(3) If such sections of old right of way,



or any part thereof, in the judgment of the commission, are needed or valuable for any public use, then the commission shall, by appropriate resolution entered in its minutes, declare the purpose of the commission to preserve the same for public use; and, upon entry of such resolution in the records of the commission, title to the portions specified therein shall remain in the public. In addition to the adoption and recording of such resolution the commission shall cause a map to be made and filed with the commission's records showing thereon the new and the old route of such sections; and if the relocation results in eliminated right of way areas only, then the map shall show the areas to be preserved for public use

(4) Nothing in this section shall impair vested rights of property owners under existing deeds, easements or contracts whereby the state or any county acquired such right of ways. This section shall not prevent the commission from contracting for the acquisition of easements or rights of way on such terms and conditions as to abandonment and reverter as it may consider advisable under the conditions then existing

**366.305 Materials, supplies and equipment.** The commission may select the materials to be used in the construction, maintenance and operation of state highways. It may purchase or contract for, independent of any particular job, improvement or highway project, whether done by contract, force account or otherwise, any material, supplies or equipment deemed necessary for carrying out the provisions and purposes of this Act in such amounts and manner and pursuant to such method as in the judgment of the commission will be for the best interests of the state

**366.310 Buildings and structures.** The commission may construct, equip, furnish and maintain office accommodations, shops, equipment sheds, storage plants and warehouses, snow fences, patrolmen quarters or accommodations and any other building, structure or thing deemed necessary for the efficient administration of the duties of the commission and which in the opinion of the commission are required for the proper and adequate accomplishment of the purposes of this Act

**366.315 Widths of rights of way.** The commission may determine the widths of rights of way for all state highways

**366.320 Acquisition of rights of way and right of access.** (1) The commission may acquire rights of way deemed necessary for all primary and secondary state highways, both within and without the corporate limits of cities and towns, except that such rights of way within the corporate limits of cities and towns may be acquired at the sole expense of the state, at the expense of the city or town or at the expense of the city or town and the state, as may be mutually agreed upon

(2) The commission may acquire by purchase, agreement, donation or by the exercise of the power of eminent domain, real property or any right or interest therein deemed necessary for rights of way, either for original location or for widening, straightening or otherwise changing any highway, road or street. The commission may, when acquiring real property for right of way, acquire all right of access from abutting property to the highway to be constructed, relocated or widened.

(3) All rights of way owned or held by the several counties over and along any roads adopted as state highways are vested in the state, by and through the commission. This subsection does not apply to any rights of way owned by any city for city streets. [Amended by 1953 c.252 §2]

**366.325 Rights of way through cemeteries.** The commission may acquire by purchase, agreement, donation or by exercise of the power of eminent domain, real property for right of way through a cemetery, except that the commission has no authority to acquire any such real property by exercise of the power of eminent domain if within the area sought to be taken there are graves which would be disturbed by the location and construction of a highway. The commission may acquire by purchase, agreement, donation or exercise of the power of eminent domain, real property contiguous to the cemetery, and may convey such real property to the cemetery association or the owners of the cemetery in exchange for the property sought to be acquired for right of way purposes, but such authority shall not be exercised unless and until the owners of the cemetery agree in writing to the exchange of lands

**366.330 Acquisition of land adjoining right of way.** The commission may, when acquiring real property for right of way purposes, acquire additional real property ad-

joining the real property sought to be acquired for the particular public project if such additional and adjoining real property is needed for the purpose of moving and establishing thereon buildings or other structures then established on real property required for right of way purposes. The acquisition of the abutting, additional real property may be accomplished by purchase, agreement, donation or exercise of the power of eminent domain. Such real property can be acquired only in the event that the owner of the real property required for right of way purposes and on which there is then located buildings or other structures, has entered into a written agreement with the commission providing for and consenting to the removal and reestablishment of the buildings or structures on the additional, abutting real property.

**366.335 Acquisition of railroad right of way; exchange of land therefor.** (1) Whenever in the location, relocation, construction or betterment of any highway within the state, it is deemed necessary to locate, relocate or construct the highway, or any part thereof, upon the right of way of any railroad company, the state, through the commission may negotiate and agree with the railroad company for the right to use or occupy the right of way, or so much thereof as is necessary for highway purposes.

(2) In case no satisfactory agreement can be effected, then the state, through the commission, may acquire the right of way by exercise of the power of eminent domain, and for that purpose may commence and prosecute condemnation proceedings to acquire the right to the use and occupancy of sufficient of the railroad right of way for highway purposes. The commission may, whenever such proceedings are necessary on behalf of the state, request the Attorney General to institute and prosecute the necessary proceedings to acquire the right of way.

(3) Nothing in this section authorizes the use or occupancy of the railroad right of way which would interfere with the operation of the railroad or its necessary appurtenances, taking into consideration the use of the railroad right of way by the company for yards, terminals, station grounds and necessary additional trackage, or which would jeopardize the safety of the public.

(4) In the event that the right of way or property of any railroad company in the state required or needed for state highway

location or state highway construction, or any portion of the property or right of way is likewise needed and required by the railroad company for the proper operation of its trains and the usual and ordinary conduct of its business, but which property or land the railroad company is willing to deed to the state for highway purposes in exchange for a like amount of land in close proximity thereto, the state, through the commission, may acquire by purchase, agreement or by exercise of the power of eminent domain, an equal amount of land or property contiguous or as nearly adjacent thereto as possible. After having acquired such land or property, the state, through the commission, may convey the same to the railroad company in exchange for the land or property needed and required from the railroad company for highway purposes. The difference in the value of the respective parcels of land shall be considered by the commission in making the exchange. In the event that it becomes necessary in the acquisition of such land or property to institute condemnation proceedings, the commission is authorized to request the Attorney General to institute and prosecute the necessary proceedings to acquire the land or property.

**366.337 Exchange of certain parcels of land authorized.** The State Highway Commission, in the name of the State of Oregon, hereby is authorized to convey to any person, firm or corporation all or parts of the real properties described in section 1 of chapter 21, Oregon Laws 1953, in exchange for other real properties in close proximity thereto which, in the judgment of the commission, are of equal or superior useful value for public use. [1953 c 21 §2]

**366.340 Acquisition of real property generally.** The commission may acquire by purchase, agreement, donation or by exercise of the power of eminent domain real property, or any right or interest therein, including any easement or right of access, deemed necessary for

(1) Construction of shops, equipment sheds, office buildings, maintenance sites, patrolmen accommodations, snow fences, quarry sites, gravel pits, storage sites, stock pile sites, weighing stations and broadcasting stations

(2) Appropriation, acquisition or manufacture of road-building materials, approach

or hauling roads, connecting roads, frontage road, highway drainage and drainage tunnels.

3) Maintenance of an unobstructed view of any state highway so as to provide for the safety of the traveling public

(4) Any other use or purpose deemed necessary for carrying out the purposes of this Act

(5) Elimination or prevention of hazardous or undesirable points of entry from adjacent property to state highways [Amended by 1953 c 252 §2]

**366.345 Acquisition and development of scenic places.** (1) The commission may acquire by purchase, agreement, donation or by exercise of the power of eminent domain real property, or any right or interest therein, deemed necessary for the culture of trees and the preservation of scenic places and other objects of attraction or scenic value adjacent to, along or in close proximity to state highways, or which may be conveniently reached from or by a public highway. The commission may in like manner acquire land and ground necessary for the development and maintenance of parks, parking places, auto camps, camp sites, roadside development, recreational grounds or resorts, forest or timbered areas or other places of attraction and scenic value which in the judgment of the commission are necessary for the convenience of the public, and which will contribute to the general welfare and pleasure of the motoring public or road user

(2) The commission may develop, construct, improve, operate and maintain the places named in subsection (1) of this section to such an extent and in such manner as will best afford to the motoring public and road users necessary conveniences and accommodations, and as will contribute to the general welfare of the people of the state or the members of the motoring public using the highways of the state

**366.350 Park regulations.** The commission may make regulations and provisions for the use and administration of state parks and all recreational, scenic and other places of attraction which are owned by or under the control of the state, acting by and through the commission. Such regulations shall be duly entered in the minutes and records of the commission. The regulations may provide reasonable charges for the use of accommodations provided in such parks and

areas. The regulations shall be posted within the main entrance of each of the areas. Nothing in this section or in ORS 366.175, 366.180 or 366.990 shall impair, restrict or modify any of the powers of the commission with reference to state parks and recreational and scenic areas

**366.355 Establishment and operation of arboretum and botanical garden.** (1) The commission may establish, maintain, operate and control an arboretum and botanical garden which shall be a part of the system of parks, scenic places and recreational areas under the State Parks Division of the commission.

(2) Upon the establishment of the garden, its management shall be placed under the direct supervision of the State Parks Superintendent, who shall operate, maintain and supervise the garden under the direction and control of the commission

(3) The garden shall be located in and be the property of the State of Oregon. The site of the garden shall be selected by the foundation and the commission jointly, but shall be on a main or arterial highway, as near the population and education centers of the state as possible.

(4) The commission may accept funds from any source for the establishment, maintenance and operation of the garden, but the commission shall not contribute or use highway funds in connection with the garden. All funds received from any source shall immediately be paid by the commission into the General Fund in the State Treasury and there maintained in an account designated as the Arboretum Botanical Garden Account, which account hereby is appropriated solely for the purposes of this section. The commission may accept property, both real or personal, in addition to funds, which shall be dedicated to and used for the garden by the commission

(5) The commission may acquire at any time, by purchase or by exercise of the power of eminent domain, any interest in real property deemed necessary for the establishment, maintenance and operation of the garden. Property acquired by exercise of the power of eminent domain shall be acquired in the manner provided in ORS 366.370 to 366.390, except that the defendant shall not be entitled to recover as costs and disbursements any sum taxed as attorney's fees

(6) The foundation and the commission shall confer and cooperate at all times in all

matters pertaining to the garden to the end that the purpose and public values contemplated by this section may be accomplished and the public interest best served

**366.360 Taking fee simple.** In all cases where title to real property is acquired by the commission either by donation, agreement or exercise of the power of eminent domain, a title in fee simple may be taken

**366.365 Going upon private property.** The commission may go upon private property for the purpose of examination, inspection or survey to determine the advisability or practicability of locating and constructing a highway thereover, or the source, suitability or availability of road-building materials thereon. The commission may exercise this authority prior to the filing or commencement of condemnation proceedings, but in the exercise of such authority no damage shall be done the property nor shall the owner be unnecessarily inconvenienced or disturbed in the use and enjoyment of his property. [Amended by 1953 c 252 §2]

**366.370 Resolution to acquire real property; agreement with owner.** (1) Whenever in the judgment of the commission it is necessary to acquire real property for any of the purposes for which the commission is authorized by law to acquire real property, the commission may, after first declaring by resolution that the real property is necessary and the purpose for which it is required, attempt to agree with the owner of any interest in the real property with respect to the compensation to be paid therefor, and the damages, if any, for the taking thereof

(2) The resolution of the commission is conclusive evidence of the public necessity of the proposed public improvement or project, that the real property, or interest therein, is necessary therefor and that the proposed improvement or project is planned or located in a manner which will be most compatible with the greatest public good and the least private injury

(3) It is not prerequisite to the exercise of the right of eminent domain, or to the bringing of any condemnation proceedings to acquire title to any land lying within the boundaries of a state highway as adopted by the commission, to attempt first to agree with any owner of any such land or to allege or prove any effort to agree with such owner as to reasonable value where such owner is at the time concealed within the state or,

after reasonable effort by the commission, cannot be found within the state

**366.375 Commencement of condemnation proceeding; defendants.** (1) If the commission is unable to agree with the owner of any interest in the real property referred to in ORS 366.370, or if the owner conceals himself, or if, after diligent search, the commission is unable to find the owner within the state, the commission may commence and prosecute to a final determination any necessary or appropriate suit or action for the state in the name of the state, by and through the commission, in the circuit court of the county wherein the real property is located, for the condemnation of such interests as the owner may have in the real property, including any and all right of access if the real property to be acquired is for right of way purposes, and for determining the compensation to be paid therefor, and the damages, if any, for the taking thereof.

(2) Such action or proceeding may be commenced against the person in whose name the record title appears. There may be included as defendants any lessee or other person in possession and all other persons having or claiming an interest in the property.

(3) Except as otherwise provided in ORS 366.375 to 366.390, such action or proceeding shall be commenced and prosecuted to final determination in the same manner as an action at law

**366.380 Service; pleadings; judgment; appeal; costs and disbursements.** (1) The complaint in the action or proceeding referred to in ORS 366.375 shall describe the real property, rights, easements or interest sought to be condemned and appropriated

(2) If a defendant is a nonresident of this state or is unknown, service of the summons may be made by publication as in ordinary cases.

(3) The defendant in his answer may set forth any legal defense he may have to the appropriation of the lands, or any portion thereof. He may also allege the true value of the real property and the damage resulting from the appropriation thereof

(4) Upon the motion of either party made before the formation of the jury, the court shall order a view of the property or premises in question; and upon the return of the jury, the evidence of the parties may be heard and the verdict of the jury given

(5) Upon the payment into court of the damages assessed by the jury, the court shall give judgment appropriating the lands, property, rights, easements or interests in question to the state; and thereafter the same shall be the property of the state absolutely and may thereafter be used for any public purpose

(6) Either party to the action may appeal from judgment in like manner and like effect as in ordinary cases, but the appeal shall not stay the proceedings so as to prevent the commission from taking such real property into possession and using it for the purposes for which it is being appropriated.

(7) The costs and disbursements of the defendants, including a reasonable attorney's fee to be fixed by the court, shall be taxed by the clerk and recovered from the state; but if it appears that the commission tendered the defendants before commencing the action an amount equal to or greater than that assessed by the jury, the state shall recover its necessary disbursements from the defendants.

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**366.385 Election of state to take condemned property.** Within 30 days after the verdict of the jury is given, the commission shall file with the clerk of the court a notice of its election to proceed with the taking of the property condemned or its election not to take the same. If the commission elects not to take the property condemned, the court shall enter judgment in favor of the defendants for their necessary disbursements in the action and for a reasonable attorney's fee to be fixed by the court

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**366.390 Taking possession after condemnation begun.** At any time after proceedings have been commenced or instituted to acquire title to any real property the commission may enter into possession of any or all of such real property and make use thereof for the purposes for which the same is being appropriated. In any case when the commission enters upon any property as provided in this Act, after having brought proceedings to condemn such property and acquire the title thereto for the purposes authorized by law, the commission shall proceed with all reasonable diligence to carry the condemnation proceedings to a final judgment. When the value of the property has finally been ascertained judgment therefor shall be entered. When the judgment be-

comes final, the amount thereof shall be promptly paid.

**366.392 Advancement, out of highway fund, of compensation for property immediately possessed after commencement of condemnation proceeding.** Whenever the State Highway Commission has commenced an action or proceeding for the condemnation of any real property, and immediate possession of said real property is deemed necessary by the commission, the commission may certify to the Secretary of State such facts, together with an authorization for advancement out of the State Highway Fund of the amount estimated by the commission to be just compensation for said real property. Upon receipt of such certificate and authorization from the State Highway Commission the Secretary of State shall immediately draw a warrant in favor of the clerk of the court wherein said action or proceeding was commenced, in the amount authorized by said commission, to the use of the defendants in said action or proceeding [1953 c 621 §1]

**366.393 Court may distribute advance payments to persons entitled thereto.** The court may distribute all or any part of such funds to the person or persons entitled thereto for or on account of the just compensation to be awarded in said action or proceeding, upon such terms and conditions as may appear just and reasonable [1953 c 621 §2]

**366.395 Disposition or leasing of property.** (1) The commission may sell, lease, exchange or otherwise dispose or permit use of real or personal property, including equipment and materials acquired by the commission, title to which real or other property may have been taken either in the name of the commission, or in the name of the state, and which real or personal property is, in the opinion of the commission, no longer needed, required or useful for highway purposes, except that real property may be leased when, in the opinion of the commission, such real property will not be needed, required or useful for highway purposes during the leasing period

(2) The commission may sell, lease, exchange or otherwise dispose of such real or personal property in such manner as in the judgment of the commission will best serve the interests of the state and will most adequately conserve highway funds. In the case of real property, interest in or title to the same may be conveyed by deed or other

instrument executed in the name of the state, by and through the commission. All funds or money derived from the sale or lease of any such property shall be paid by the commission to the State Treasurer and by him credited to the highway fund [Amended by 1953 c 252 §2]

**366.400 Execution of contracts; contractor's bond; counties as contractors.** (1) The commission may enter into all contracts deemed necessary for the construction, maintenance, operation, improvement or betterment of highways or for the accomplishment of the purposes of this Act. All contracts executed by the commission shall be made in the name of the state, by and through the commission.

(2) On all contracts for highway construction, improvement, operation and maintenance involving the employment of labor and materials a satisfactory bond shall be required of the contractor in a sum not less than 50 percent of the total amount of the contract. The bond shall be conditioned upon the faithful performance of the contract and shall contain:

(a) A condition that the contractor shall promptly, as due, make payment to all persons supplying such contractor or his subcontractor, labor or materials, for the prosecution of the work provided for in the contract.

(b) A condition that the contractor shall pay all contributions or amounts due the State Industrial Accident Fund from the contractor or his subcontractors, incurred in the performance of the contract.

(c) Such other conditions or provisions as the commission may provide.

(3) The county court or board of county commissioners of any county may bid on and enter into contracts for the construction of any unit of highway construction wholly within such county on the same terms and conditions as other contractors, except that the county court or board of county commissioners shall not be required to deposit a certified check to guarantee the execution of the contract [Amended by 1953 c 252 §2]

**366.405 Letting contracts by bids; work done by day labor or own forces.** (1) The commission, according to law and in open and public session, may let all contracts for the construction, maintenance, operation, improvement or betterment of highways to the lowest and best responsible bidder, determined as a result of a call for competi-

tive bids. The commission may by rule or regulation provide and fix the time or notice which shall be given when bids are called for. The commission may reject any or all bids. If no satisfactory bid is received new bids may be called for, or the work may be done without letting to contract and pursuant to such manner or method as determined by the commission.

(2) Whenever the commission has received competitive bids for the letting of any contract and it appears that the contract cannot be immediately awarded, because necessary rights of way have not been acquired or cleared, or the approval of the Bureau of Public Roads has not been received, or for any other reason, the commission, after electing to accept a bid and to award a contract and after selecting and designating the bidder to whom the contract is to be awarded, may authorize and direct the highway engineer or his representative to award the contract to the designated bidder as soon as the circumstances preventing immediate award of the contract have been eliminated or remedied.

(3) On work involving an expenditure of less than \$5,000 it is discretionary with the commission whether the project shall be let by contract, performed by day labor or by the commission's own forces. On all work performed by the state, either by day labor or with the commission's own forces, the highway engineer shall be held responsible for the economical prosecution and accomplishment of the work. It is discretionary with the commission whether work for the maintenance or minor betterment of highways shall be done by contract or with the commission's own forces, and if done by the commission's own forces it is not necessary to call for competitive bids [Amended by 1953 c 252 §2]

**366.410 Use of patented materials or processes in highway construction.** (1) No part of the money expended for the hard surfacing of state highways shall be used directly or indirectly for the payment of any premium or royalty on any patented or proprietary material, specification, process or type of construction, unless the same is purchased or obtained on open, actual, competitive bidding.

(2) No patented or proprietary material, specification, process or type of construction shall be constructed unless, in competition with unpatented pavement, the same is pur-

chased or obtained at the same or less cost, including all royalties, having regard to strength, durability and resistance to wear

(3) If the commission lets any contract for the construction of any road, consisting of any article or pavement upon which a patent is claimed, the commission may pay all royalties that may be due on account of the construction of the road laid with the patented article or pavement, direct to the patentee, and in that event the contractor is only required to bid on the construction of the road without including in the bid the cost of royalties that may be claimed on account of the construction of the road with the patented article or pavement.

#### **366.415 Partial payment on contracts.**

Partial payment shall be allowed and made on contracts for highway projects based upon estimates prepared and certified to by the highway engineer and approved by the commission, but not more than 97 percent of the contract price of the work completed shall be paid before the completion of the contract and its acceptance by the commission. No such payment shall be construed as acceptance or approval of such work or waiver of any defects therein. The commission may adopt a uniform rule governing retained percentages, which rule shall be embodied in all contracts and may be changed from time to time. With respect to vouchers for partial payments the signature of the chairman of the commission shall be sufficient endorsement to authorize the Secretary of State to issue a warrant in payment of such partial payment, but the signature of at least two members of the commission shall be required on the final voucher

**366.420 Effect of assignment of funds earned under highway contract.** No assignment of funds earned under a contract for highway construction, improvement or maintenance shall be approved or recognized by the commission which may in any way jeopardize the interests of persons furnishing labor or materials in connection with the performance of the contract or which may in any way impair the funds available for such purposes. Any assignment of funds before the completion of the job and before all claims and debts incurred in the performance of the work have been paid shall be void as against the debts or claims incurred in connection with the performance of the work.

**366.425 Deposit of moneys for highway work.** Any county, city or road district of the state or any person, firm or corporation may deposit moneys in the State Treasury for laying out, surveying, locating, grading, surfacing, repairing or doing other work upon any public highway within the state under the direction of the commission. When any moneys are so deposited the commission shall proceed with the proposed highway project, and the money deposited shall be disbursed for the purpose for which it was deposited upon the warrant of the Secretary of State and upon a voucher approved by the commission

**366.430 Paying claims for injuries and damages.** The commission may audit, allow and pay out of the highway fund claims for injury to persons or damage to property where such injury or damage results from accidents occurring in connection with the construction, maintenance or operation of state highways by the state's own forces or its employes, or where such injury or damage results from the operation of any state-owned equipment belonging to the Highway Department and operated at the time by a state highway employe. No such claim for injury or damage may be allowed or paid by the commission if the cause or occasion of the accident resulting in such injury or damage is chargeable to the conduct or negligence of the party injured or damaged. This section does not authorize the commission to allow or pay any claim for any such injury or damage in excess of \$500 [Amended by 1953 c 252 §2]

#### **366.435 Auditing and allowing claims.**

(1) The commission may audit and allow all claims legally payable out of the highway fund, which shall be submitted to the commission for such audit and approval. The commission shall, if satisfied as to the correctness and validity of the claim, endorse approval thereon. When claims have been approved and endorsed by the commission and filed with the Secretary of State, the Secretary of State shall audit and pay the same out of the highway fund

(2) A group or number of different claims properly prepared and verified may be listed, accompanied by adequate definition and description to insure identification, and the list may be submitted to the commission for approval. If the commission is satisfied as to the correctness and validity of

each of the claims the commission may endorse on the list its approval. In that event the commission need not sign or endorse each individual voucher or claim, but the endorsement on each prepared list shall be sufficient. The list shall be prepared in duplicate and shall bear the certificate of the secretary to the commission and the highway engineer or assistant highway engineer as to the correctness of each claim. One list, bearing the endorsement of the commission, shall, together with the individual vouchers listed thereon, be filed with the Secretary of State. The endorsement of the list of claims by the commission shall be treated by the Secretary of State as an endorsement of each individual claim or voucher. The duplicate list shall be filed in the office of the commission in Salem, Oregon.

(3) As used in this section, "group or number of different claims" includes the payroll of state highway employes when the payroll is prepared as provided in ORS 366.160. [Amended by 1953 c 252 §2]

**366.440 Payment of employes.** The commission may pay employes by individual and separate vouchers or by a payroll.

**366.445 Repair of damaged highways.** The commission may repair or cause to be repaired at once any state highway which has been damaged by slides, flood or other catastrophe so that the highway may be immediately reopened to traffic. To accomplish the reopening of the highway the commission may, if it is deemed for the best interests of the state, proceed at once to remove the slide or to repair the damage with the commission's own forces, or with other available forces. The commission may cause such work to be done by contract without calling for competitive bids.

**366.450 Road signs.** The commission may erect and maintain suitable directional road signs on the state highways at such places and of such material and design as it selects.

**366.455 Removing advertising signs and unlawful structures.** The commission may take down and remove from the right of way of any state highway or from private property adjoining the highway any advertising sign or other structure or thing erected or maintained thereon contrary to law. When removing such sign, thing or structure the commission shall follow and comply with

the legal or statutory procedure provided by law.

**366.460 Construction of sidewalks within highway right of way.** The commission may construct and maintain within the right of way of any state highway or section thereof sidewalks, footpaths, bicycle paths or trails for horseback riding or to facilitate the driving of livestock. Before the construction of any of such facilities the commission must find and declare that the construction thereof is necessary in the public interest and will contribute to the safety of pedestrians, the motoring public or persons using the highway. Such facilities shall be constructed to permit reasonable ingress and egress to abutting property lawfully entitled to such rights.

**366.465 Gates and stock guards.** The commission may erect and maintain gates and stock or cattle guards in state highways at such points where the highways are crossed by drift or stock fences, where such highways intersect state or government-owned highways or other public highways and at other places in the state highways as the commission may deem for the best interests of the public. The commission may issue permits for the erection and maintenance of the same. Any gates constructed under this section must be constructed and maintained upon the right of way and not upon the traveled portion of the highway. If gates or stock guards are constructed under this section pursuant to a permit issued by the commission, then the permit may contain such conditions, obligations and requirements as the commission may deem for the best interests of the general public.

**366.470 Agreements with railroad companies for snow removal.** (1) The commission may enter into agreements with a railroad company for the removal of snow from highway and railroad whenever a state highway is in close proximity to a railroad track and by reason thereof and in order to remove from the highway snow and ice which has blocked or threatens to block the highway to traffic it becomes necessary to cast such snow and ice upon the railroad tracks, thereby impairing or interfering with train movement and tending to block train operations. The agreement may be made during or in anticipation of any such contingency, shall be in writing and shall fix the terms and conditions under which and the extent



to and manner in which the state may, in removing the snow and ice from the highway, cast it upon the railroad tracks.

(2) The commission may procure or cause to be executed by a corporation authorized to do such business in the state, a liability policy of insurance or an undertaking running in favor of the state, the commission, the railroad company and their officers and such employes of such parties as the contracting parties may designate.

(3) The insurance or undertaking

(a) Shall be acceptable to the contracting parties

(b) Shall in any event indemnify, protect and hold harmless the railroad company, its officers and employes designated, the state, the commission, its officers and employes designated, from all claims for damage occasioned by or in connection with the removal of snow from the highway and the casting of the snow upon the railroad tracks.

(c) May, if so provided, reimburse either or both of the contracting parties for loss, cost and expense incurred in connection with or resulting from such work

(4) The commission may pay out of the highway fund the premium for the insurance and the cost and expense incurred or sustained by the railroad company and the state incident to the snow removal. [Amended by 1953 c 252 §2]

**366.475 Publication of information and maps** (1) The commission may compile and publish with respect to the public highways of the state and with respect to public parks, recreational grounds, scenic places and other public places and scenic areas or objects of interest, data as to distances, special and peculiar advantages, historical facts and other items or matters of interest, and assemble, compile and publish such other information with respect thereto as in the opinion of the commission will be of interest and value to the general public and road users

(2) The commission may make or cause to be made from time to time maps disclosing thereon the highways of the state and the places of interest served and reached by the highways.

(3) The commission may print, publish and prepare, in such manner or form as to the commission may seem best, all the information and data mentioned in this section, and provide for the publication, distribution

and dissemination of the same in such manner and method and to such extent as in the opinion of the commission will best serve the motoring public and contribute to the convenience and information of the motoring public and road user.

**366.480 Destruction of vouchers.** The commission may from time to time destroy copies of vouchers which have ceased to possess any record value or serve any purpose and which have been in the files and custody of the commission for a period of at least 10 years.

**366.485 Biennial report to Governor.** The commission may make a biennial report to the Governor, which shall set out

(1) The work accomplished during the period

(2) The revenues received by the commission and the disbursements of such revenues

(3) Such general information as may appear desirable regarding the construction, improvement or maintenance of highways and bridges.

(4) Such other information or data as may be deemed pertinent and proper

**366.490 to 366.500** [Reserved for expansion]

## STATE HIGHWAY FUND

**366.505 Composition and use of highway fund.** (1) The State Highway Fund shall consist of

(a) All moneys and revenues derived under and by virtue of the sale of bonds, the sale of which is authorized by law and the proceeds thereof to be dedicated to highway purposes

(b) All moneys and revenues accruing from the licensing of motor vehicles, operators and chauffeurs

(c) Moneys and revenues derived from any tax levied upon gasoline, distillate, liberty fuel or other volatile and inflammable liquid fuels.

(d) Moneys and revenues derived from or made available by the Federal Government for road construction, maintenance or betterment purposes

(e) All moneys and revenues received from all other sources which by law are allocated or dedicated for highway purposes.

(2) The highway fund shall be deemed and held as a trust fund and may be used

only for the purposes authorized by law and hereby is continually appropriated for such purposes.

(3) All interest earnings on any of the funds designated in subsection (1) of this section shall be placed to the credit of the highway fund [Amended by 1953 c 125 §5]

**366.510 Turning over highway funds to State Treasurer.** The Secretary of State and all other state officials charged with the collection of highway funds shall, upon the first of each month after collection, unless a different time is otherwise provided, turn the same over to the State Treasurer who shall enter such revenues in the account of the highway fund.

**366.515 Expenditure from highway fund.** (1) The highway fund shall be expended under the jurisdiction of the commission

(2) Except as provided in ORS 366.670 and 366.735, the commission shall set aside from the highway fund, in the following order

(a) An amount sufficient for the salaries and expenses of the highway department

(b) A sufficient amount to cover the cost of operating and maintaining state highways which have been constructed or improved.

(c) Sufficient funds to meet the Federal Government appropriation and requirements of sections 6 and 8 of the Act of July 11, 1916, 39 Stat 355, entitled "An act to provide that the United States shall aid the states in the construction of rural post roads and for other purposes," or any federal appropriation that may be provided.

(d) The remainder shall be used for any of the purposes authorized by law

(3) All the highway fund not otherwise specifically applied shall be expended by the commission in its discretion on the construction, maintenance, betterment or pavement of roads and highways within the state

**366.516 Incurring obligations payable from anticipated revenues.** The State Highway Commission may incur obligations to be paid from the State Highway Fund for the construction, reconstruction, improvement, repair or maintenance of highways, streets and bridges in excess of the amount then standing to the credit of the State Highway Fund if in the opinion of the commission there will be sufficient funds available for the payment of such obligations when they

become due and payable and all other debts, obligations and expenses chargeable against the State Highway Fund including those amounts that are required by law to be set aside from the State Highway Fund for particular purposes. Obligations incurred under the authority of this section need not be payable in the same biennial period during which the obligation is incurred [1953 c 125 §2]

**366.517 Commission may determine certain accounting procedures.** The State Highway Commission shall determine the accounting period for which any expenditures shall be charged against the State Highway Fund. The commission may charge such expenditures against the State Highway Fund at the time the expenditures are actually paid even though the expenditures were obligated during a prior accounting period. The Secretary of State shall audit and allow the amounts necessary to pay claims approved and indorsed by the commission, and shall charge such amount against the State Highway Fund for the accounting period determined by the commission. The State Highway Commission may keep its accounts on a calendar year basis [1953 c 125 §3]

**366.518 Expenditures from highway fund to be reported, budgeted and limited to amounts budgeted.** The State Highway Commission shall submit a biennial statement and budget estimate as required by law, and shall limit its expenditures from the State Highway Fund during each biennial period to the total amount of the budget approved according to law; provided, that the word "expenditures" shall mean all money actually paid out or due and payable, but shall not mean liabilities or obligations incurred but not due and payable until a subsequent biennial period. The provisions of any law establishing a Legislative Assembly emergency committee shall apply to expenditures from the State Highway Fund [1953 c.125 §4]

**366.520 Expenses in legalizing state highways.** The expenses incurred in any proceeding by the commission under ORS 368.585 to 368.610, when applied to state highways, shall be paid out of the highway fund.

**366.522 Appropriations from highway fund for legislative interim committees.** It hereby is declared to be the policy and intent of the Legislative Assembly that the total

appropriations out of the State Highway Fund made by it for the payment of expenses incurred by the Legislative Assembly by and through its interim committee during any biennium shall be deemed to be the maximum amount necessary for such purpose. Any unexpended and unobligated balance remaining in any such appropriation heretofore or hereafter made shall, after the expiration of the biennium for which the appropriation was made, be returned to the State Highway Fund and may thereafter be used for any purpose authorized by law. [1953 c 84 §1]

**366.525 Appropriation from highway fund for counties.** There shall be and hereby are appropriated out of the highway fund annually such sums of money as will equal 19 percent of all moneys credited to the State Highway Fund by the State Treasurer between January 1 and December 31 of each year and which have accrued from funds transferred to the highway fund by the State Treasurer under ORS 319 410, 481 540, 767.635 and from fines and penalties collected for violations of the motor vehicle and transportation laws. The appropriation shall be distributed among the several counties for the purposes now provided by law.

**366.530 Basis of allocation of appropriation to counties.** The sum designated in ORS 366 525 shall be remitted by warrant of the Secretary of State to the county treasurers of the several counties in the proportion which the number of motor vehicles, trailers, semi-trailers, pole trailers and pole or pipe dollies registered from each county during the preceding year bears to the total number of such vehicles registered in the state during such year as indicated by the county in which the applicant actually resides or conducts his business, as shown by the motor vehicle registration records in the office of the Secretary of State during the preceding year. All such vehicles owned and operated by the state and registered under ORS 481.125 shall be excluded from the computation in making the apportionment.

**366.535 Remitting appropriation to counties.** The appropriation made by ORS 366.525 shall be remitted to the counties on or before the last day of each month following the end of the calendar quarters ending on March 31, June 30, September 30 and December 31 of each year in an amount equal to 19 percent of revenues as defined

and determined in ORS 366.525 and credited to the highway fund for such calendar quarters

**366.540 Limit on appropriation for counties; advances.** The appropriation made by ORS 366.525 shall constitute the entire appropriation to be made to the counties out of revenues accruing to the highway fund. Upon satisfactory showing before the commission by any county that the county has not sufficient funds with which to pay, when due, bonded indebtedness incurred for highway purposes, the commission may certify such fact to the Secretary of State, who may, pursuant to the certificate, draw a warrant in favor of the county against the highway fund in the amount set out in each certificate, which amount so advanced shall be deducted from the next payment due the county under ORS 366.525 to 366 540.

**366.545 to 366.600** [Reserved for expansion]

#### **BONDED INDEBTEDNESS FOR HIGHWAY PURPOSES**

**366.605 Borrowing money and issuing certificates of indebtedness for certain highway purposes.** (1) For the purpose set forth in ORS 366.725, for the purpose of providing funds with which to pay when due the interest and principal, or either, of bonded indebtedness created for highway purposes, the payment of which is necessary to protect and preserve the financial credit of the state, and for the purpose of meeting other emergencies, or for any of these purposes, the commission may borrow money from the State Treasurer or from any banking institution, and evidence the debt by certificates of indebtedness redeemable and payable out of state highway revenues only.

(2) Such certificates of indebtedness may be in such denominations or for such sums as the commission may fix, and may draw interest at a rate not in excess of six percent per year.

(3) The total indebtedness created in any one calendar year by the issuance of certificates of indebtedness under this section shall not exceed \$1 million.

(4) All certificates of indebtedness issued pursuant to this section shall mature within one year from the date of issuance.

(5) Not less than 10 days before the date of maturity of any such certificate of indebtedness the commission shall prepare and approve for payment a claim or voucher

covering the amount of the certificate, together with such interest as may be due thereon, and shall file the claim or voucher with the Secretary of State, who shall audit the claim in like manner as other claims against the state are audited, and shall issue a warrant therefor payable out of highway funds to the party entitled thereto. The State Treasurer may, upon the presentation of the warrant, take up the certificate of indebtedness and cancel it, and pay the amount of the warrant out of highway funds. Whenever a certificate of indebtedness is redeemed and paid by the State Treasurer he shall file it with the Secretary of State, and the Secretary of State shall attach the certificate to the original voucher pursuant to which payment of the certificate is made.

**366.610 to 366.620** [Reserved for expansion]

**366.625 Custody and jurisdiction over expenditure of funds provided in ORS 366.625 to 366.643.** All funds provided for in ORS 366.625 to 366.643 shall be paid over to the State Treasurer forthwith, shall be accounted for in the highway fund and shall be expended under the jurisdiction and direction of the commission.

**366.627 Authority of commission under ORS 366.625 to 366.643.** The commission shall enter into such contract, appoint such officials and do any other act or thing necessary to fully meet the requirements of ORS 366.625 to 366.643.

**366.629 Authority to sell limited amount of bonds; short-term bonds authorized and limited.** The commission shall issue and sell, for the purpose of carrying out the provisions of ORS 366.625 to 366.643, in such denominations as in the judgment of the commission will be most marketable, and in addition to the bonds authorized prior to May 25, 1921, the bonds of the State of Oregon, as provided in ORS 366.625 to 366.643, in the sum of \$7,000,000 par value; provided that the commission may from time to time, issue said bonds in such amounts as in its judgment the necessity of road construction may require; provided further, that after June 14, 1939, no bonds except short-term bonds which are provided for in ORS 366.637 may be sold for any purpose, and the commission shall not sell in any one calendar year any short-term bonds

which, singly or in the aggregate, will exceed in such calendar year \$2,000,000

**366.631 Bonds issued under ORS 366.625 to 366.643; formal requirements; payment.** The Attorney General shall, at the request of the commission, prepare a form of interest bearing gold bonds of the State of Oregon, to be sold in order to provide funds for the carrying out of the purposes of ORS 366.625 to 366.643. Said bonds shall be numbered serially beginning at No. 1, and shall be payable in the order of their issuance. The bonds issued in any year under the provisions of ORS 366.625 to 366.643 shall be payable one-twentieth each year, commencing with the sixth year from the issuance thereof, except short-term bonds provided for in ORS 366.637. One-half the bonds payable each year shall be payable on April 1 and the other half on October 1. Said bonds shall mature within 25 years from the date of issuance, except said short-term bonds, and each bond shall bear upon its face a statement showing the date of its maturity. Said bonds shall bear interest at a rate to be determined and fixed by the commission, but no bond sold under the provisions of ORS 366.625 to 366.643 shall bear a greater rate of interest than six percent per annum, payable semiannually on April 1 and October 1. Principal and interest on said bonds shall be payable at the office of the State Treasurer at Salem, Oregon, or, if the commission so directs, said bonds may also provide for payment at some other place. Said bonds shall be in a form embodying absolute promise of the State of Oregon to pay the amount thereof in gold coin of the United States of America of the value of weight and fineness of the date of such bond, and shall be in such denominations as the commission elects. Said bonds shall be signed by the Governor, Secretary of State and State Treasurer. Said bonds shall bear coupons evidencing the interest to become due thereon for each instalment of such interest, upon which shall be printed the facsimile of the signatures of said officials. The commission may, at its option, cause a part or all of said bonds to be payable to the purchaser in the office of the State Treasurer, and provide an appropriate indorsement upon each of said bonds to the effect that the same will be paid only to the owner appearing on the register thereof, and provide a method for reregistering the same as the title may be transferred, and

it may also provide that a part, or all, of said bonds shall be payable to bearer and not be subject to registration. Not less than 10 days before the payment of the principal, or when interest falls due on any of the bonds provided for in ORS 366.625 to 366.643, the commission shall certify to the State Treasurer the amount necessary to meet the payment thereof. Upon receipt of such certificate by the State Treasurer, he shall prepare and verify a claim for the amount mentioned therein, attaching thereto said certificate and present same to the Secretary of State, who shall audit such claim in like manner as other claims against the state are audited and shall issue a warrant therefor payable out of said moneys provided by law for the payment thereof. The State Treasurer shall make any such payments of principal or interest on said bonds at such places, other than Salem, Oregon, as the commission may provide. When paid, all bonds and interest coupons shall be deposited by the State Treasurer with the Secretary of State to be attached to the original claim of the State Treasurer for the payment thereof.

**366.633 Advertising sale; deposit by bidder; conduct of sale.** The commission shall provide such method as it may deem necessary for the advertisement of each issue of said bonds before the same are sold, and shall also require a sufficient deposit with bids as it may deem necessary to insure the fulfillment of such bids, and generally shall conduct the sale and issuance of such bonds under rules and regulations adopted by the commission, not inconsistent with ORS 366 625 to 366 643.

**366.635 Use of proceeds; matching federal appropriations.** The moneys derived from the sale of bonds provided for in ORS 366.625 to 366 643 shall be used by the commission in the completion, construction, pavement and betterment of roads designated in ORS 366 220 and such other roads and highways as may have been or may hereafter be designated by the commission or by law as state highways; provided, that nothing contained in ORS 366.625 to 366 643 shall prevent the commission from appropriating money from the highway fund to match federal appropriation for highway purposes.

**366.637 Short-term bonds under ORS 366.625 to 366.643; authority to sell; ma-**

**turity; funds for payment or refunding.** Whenever in the judgment and discretion of the commission it will be for the good of the state, and will more efficiently and adequately promote highway construction, the commission may sell bonds under the provisions of ORS 366 625 to 366 643, which bonds shall mature at a date not later than five years from the date of sale and delivery thereof. In the event that any bonds are sold, the date of the maturity of which is five years or less from the date of sale and delivery of such bonds, then the commission may pay or refund said bonds with funds procured from the sale of other bonds under the provisions of ORS 366.625 to 366 643

**366.639 Funds available for payment of interest and principal on bonds issued under ORS 366.625 to 366.643.** The commission shall pay the principal and interest upon said bonds, as the same become due, from any funds subject to its control, from whatever source the same may come, without regard to the origin of said funds

**366.641 Constitutional debt limit; additional amount of bonds; short-term bonds only issuable under ORS 366.625 to 366.643; amount during calendar year.** No bonds shall be issued pursuant to ORS 366 625 to 366.643, nor indebtedness incurred under ORS 366 625 to 366.643 which, singly or in the aggregate, with previous debts or liabilities incurred for building and maintaining permanent roads, shall exceed any limitation provided in the Oregon Constitution at the date of the issuance and sale of such bonds, but the commission may sell, in addition to said bonds, in the amount of \$7,000,000, such an additional amount of bonds as may be permitted and authorized by, and not in conflict with, the provisions of the Oregon Constitution, provided further, that after June 14, 1939, no bonds except short-term bonds which are provided for in ORS 366.637, may be sold for any purpose, and the commission shall not sell in any one calendar year any short-term bonds which, singly or in the aggregate, will exceed in such calendar year \$2,000,000

**366.643 Effect on prior Acts; ORS 366.625 to 366.643 as additional grant of power.** Nothing contained in ORS 366.625 to 366 643 shall be deemed to limit, amend or repeal any of the provisions of other bonding Acts, or to impair in any way any

obligation arising by virtue of any bonds sold or to be sold under or by virtue of other bonding Acts of the State of Oregon, but ORS 366.625 to 366.643 shall be construed to be an additional grant of power and authority conferred upon the commission.

**366.645 Authority to sell limited amount of bonds under ORS 366.645 to 366.685.** In addition to the authority now vested by law in the commission to issue and sell state highway bonds of the state, and notwithstanding the limitations contained in ORS 366.625 to 366.643, the commission may issue and sell state highway bonds of the state to provide funds to defray the costs of location, relocation, improvement, construction and reconstruction of state highways and bridges. The principal amount of bonds that may be issued in any one calendar year under authority of ORS 366.645 to 366.685 shall not exceed \$15 million par value. At no time shall the principal amount of such bonds outstanding exceed \$40 million par value.

**366.650 Formal requirements and conditions of bonds issued under ORS 366.645 to 366.685.** (1) At the request of the commission, the Attorney General shall prepare a form of interest-bearing general obligation coupon bond of the State of Oregon to carry out the purposes of ORS 366.645 to 366.685

(2) The bonds referred to in subsection (1) of this section shall:

(a) Be payable serially in principal instalments of one-twentieth of the amount of the issue each year, beginning with the first year following the year of issue, except those bonds authorized by ORS 366.655

(b) Contain a direct promise of the state to pay the face value, with interest at such rates, not exceeding three percent per year, payable semiannually, as the commission may deem appropriate. No issue of bonds shall be sold at a higher effective interest rate for the entire issue, computed on a simple interest basis, of more than two and one-fourth percent per year, payable semiannually.

(c) Be, together with the appurtenant coupons, negotiable in form and embody an absolute and unconditional promise of the state to pay the principal and interest on the bonds, when due, in any coin or currency which, at the time of payment, is legal tender for the payment of public and private debts within the United States.

(d) Be executed with the facsimile signatures of the Governor and of the Secretary of State and with the manual signature of the State Treasurer, over the titles of their respective offices. Bonds bearing the signatures of officers in office on the date of the execution of the bonds shall be valid and legally binding obligations, notwithstanding that before delivery any or all of the officers have ceased to be such.

(e) Bear coupons evidencing the interest to become due for each instalment. The first coupon of each issue of bonds may be for a period of more or less than six months but of not more than one year, if, in the judgment of the commission, the issuance of the bonds with such coupon is advisable. Upon each coupon shall be printed the facsimile signature, with the title of his office indicated thereunder, of each of the officers named in paragraph (d) of this subsection.

(3) Principal and interest on the bonds referred to in subsection (1) of this section, when due shall be paid at the office of the State Treasurer, but with the approval of the State Treasurer the commission may designate the fiscal agency of the state in New York City as the place of payment of the bonds and of the interest. If so designated, the charges imposed by the fiscal agency for its services shall be paid, upon approval by the State Treasurer, from the highway fund.

**366.655 Sale of short-term bonds.** Whenever in the judgment of the commission it is consistent with the best interest of the state and will more efficiently and adequately promote highway construction, the commission may sell bonds under ORS 366.645 to 366.685 maturing at a date not later than five years from the issue date

**366.660 Issuance of refunding bonds.**

(1) The commission may issue refunding bonds for the purpose of refunding outstanding bonds issued under ORS 366.645 to 366.685.

(2) The refunding bonds may be sold in the same manner as other bonds are sold under ORS 366.645 to 366.685.

(3) The issuance of the refunding bonds, the maturity dates and other details thereof, the rights of the holders thereof and the duties of the Governor, Secretary of State and State Treasurer with respect thereto, shall be governed by the other provisions of

ORS 366.645 to 366 685, in so far as applicable.

(4) The refunding bonds may be issued to refund bonds originally issued or to refund bonds previously issued for refunding purposes

**366.665 Redemption of bonds before maturity.** In its discretion, the commission may issue bonds, as provided in ORS 286 040 with reservation of the right to redeem them for retirement or refunding purposes prior to the final dates of maturity

**366.670 Setting aside sufficient moneys to pay maturing bonds issued under ORS 366.645 to 366.685.** The commission shall compute and determine in January of each year, after the sale of bonds under ORS 366.645 to 366.685, the amount of principal and interest which will fall due during the year on bonds then outstanding and unpaid, and shall maintain or hold in the highway fund sufficient moneys to pay the maturing obligations.

**366.675 Payment of principal and interest on bonds; destruction of paid bonds and interest coupons.** (1) The commission shall pay the principal and interest upon bonds authorized by ORS 366 645 to 366 685 as they become due from any funds subject to its control from whatever source they may come, without regard to their origin.

(2) Not less than 20 days before the due date for the payment of the principal of and the interest on any bond issued under ORS 366.645 to 366.685, the commission shall prepare and submit to the State Treasurer for verification a claim in an amount sufficient to meet the payment. Upon verification, the commission shall present the claim to the Secretary of State for audit, in like manner as other claims against the state are audited. The Secretary of State thereupon shall draw a warrant upon the State Treasurer in payment of the claim.

(3) All bonds authorized by ORS 366 645 to 366 685 and interest coupons surrendered to the State Treasurer upon payment shall be deposited in due course by the State Treasurer with the Secretary of State. After two years from the date upon which paid bonds and interest coupons are deposited, the Secretary of State shall destroy them. The Secretary of State shall prepare a list of the bonds and coupons destroyed and shall file the list with the State Treasurer

with certificate thereon duly signed by him that the bonds and coupons described therein were destroyed by him on the date of the certificate

**366.680 Advertisement and manner of sale of bonds authorized by ORS 366.645 to 366.685.** (1) The commission shall provide such method as it may deem appropriate for the advertisement by newspaper of each issue of bonds authorized by ORS 366 645 to 366 685 before the issue is sold and shall require such deposit with each bid as it deems adequate to insure the fulfillment thereof. The advertisement shall be for a period of not less than 10 days and shall contain a provision to the effect that the commission, in its discretion, may reject any or all bids received by it in pursuance of the advertisement. In the event of rejection, the commission may readvertise for bids for the bonds in the form and manner set forth in this section, as many times as, in the judgment of the commission, may be necessary to effect a satisfactory sale.

(2) None of the bonds authorized by ORS 366.645 to 366 685 may be sold at private sale. They may be sold to the state, either in registered or in coupon form, without advertisement for public sale, at such interest rates, not exceeding an effective rate, computed upon a simple interest basis, of two and one-fourth percent per year, payable semiannually, and at such price, not lower than that specified in this section, as agreed upon by the commission and the State Bond Commission

(3) The bonds authorized by ORS 366 645 to 366 685, except refunding bonds, may be sold to any bidder or to the state at a price of not less than 98 percent of the par value and the full amount, if any, of the interest accrued at the date of delivery of the bonds to the purchasers thereof. Refunding bonds shall not be sold for less than the par value and the full amount of the accrued interest.

**366.685 Disposition and use of bond proceeds.** All moneys obtained from the sale of bonds under ORS 366.645 to 366.685 shall immediately be paid over to the State Treasurer and by him credited to the highway fund. Such moneys shall be used only for the purposes stated in ORS 366 645 to 366.685

**366.686 and 366.687** [Reserved for expansion]

**366.688 Authority to sell limited amount of bonds under ORS 366.688 to 366.697.** In addition to the authority now vested by law in the commission to issue and sell state highway bonds of the State of Oregon, and notwithstanding the limitations prescribed by other laws, the commission hereby is authorized and empowered to issue and sell state highway bonds of the State of Oregon to provide funds from which to defray the costs of location, relocation, improvement, construction and reconstruction of state highways and bridges. For the above purposes the commission may issue bonds in the aggregate principal sum of not to exceed \$32,000,000 par value. The amounts that may be expended from the proceeds of sale of the said bonds shall not exceed \$10,000,000 for the calendar year 1953, \$15,000,000 for the calendar year 1954, and \$7,000,000 for the calendar year 1955. Any unexpended balance of such funds so limited for expenditure during a given year may be expended in any subsequent year or years. [1953 c.20 §2]

**366.689 Disposition and use of bond proceeds.** All moneys obtained from the sale of such bonds shall immediately be paid over to the State Treasurer and by him credited to the State Highway Fund. Said moneys shall be used only for the purposes stated in ORS 366.688 to 366.697. Pending the use of said moneys for highway purposes they may be invested by the State Bond Commission in obligations of the State of Oregon or of the United States Government, or both, having maturity dates of not to exceed one year. The earnings from such investments shall inure to the State Highway Fund. [1953 c.20 §3]

**366.690 Formal requirements, maximum interest and place of payment of bonds.** All bonds issued under authority of ORS 366.688 to 366.697 shall contain a direct promise of the State of Oregon to pay the face value thereof, with interest thereon at such rate or rates, not exceeding 3 percent per annum payable semiannually, as the commission may deem appropriate; but no issue of bonds shall be sold at a higher effective interest rate for the entire issue, computed on a simple interest basis, than 2½ percent per annum payable semiannually. The principal of and the interest upon the bonds, when due, shall be paid at the fiscal agency of the State of Oregon in the City and State of New York. The charges imposed by such agency for its ser-

VICES shall be paid, upon approval by the State Treasurer, from the State Highway Fund. [1953 c.20 §4]

**366.691 Bonds payable in instalments; bonds may be redeemed for retirement or refunding; bonds and coupons negotiable; execution of bonds and coupons.** Each issue of bonds, except those authorized by ORS 366.695, shall be payable in such principal instalments and upon such maturity date or dates as shall be determined by the commission, provided that the earliest maturity date of any of the bonds of an issue shall be not less than one year and the final maturity date not more than 20 years, from the date of issue thereof. In its discretion, the commission may issue the bonds, as provided in ORS 286.040, with reservation of the right to redeem the bonds for retirement or refunding purposes prior to the final date or dates of maturity thereof. The bonds and the appurtenant coupons shall be negotiable in form and shall embody an absolute and unconditional promise of the State of Oregon to pay the principal of and the interest upon the bonds, when due, in any coin or currency which, at the time of payment, is legal tender for the payment of public and private debts within the United States of America. The bonds shall be executed with the facsimile signatures of two of the three officers designated in ORS 286.050, and with the manual signature of the other of such officers, as agreed upon among them. The bonds shall bear coupons evidencing the interest to become due thereon for each instalment thereof. The first coupon of each issue of bonds may be for a period of more or less than six months but of not more than one year, if, in the judgment of the commission, the issuance of the bonds with such coupons is advisable. The coupons shall be executed with the facsimile signature, with the title of his office thereunder, of each of the officers named in ORS 286.050. Bonds issued under authority of ORS 366.688 to 366.697 and the interest coupons annexed thereto, bearing the signatures of officers in office on the date of the execution of the bonds shall be valid and legally binding obligations, notwithstanding that before delivery of the bonds to the purchasers thereof any or all of the said officers shall have ceased to be such. [1953 c.20 §5]

**366.692 Procedure in connection with payment of bond principal and interest.** The



State Highway Commission shall pay the principal and interest upon said bonds as the same shall become due from any funds subject to its control from whatever source the same may come, without regard to the origin of said funds. Not less than 20 days before the due date for the payment of the principal of and the interest on any bond issued under authority of ORS 366 688 to 366 697, the commission shall prepare and submit to the State Treasurer for verification a claim in an amount sufficient to meet the payment thereof; and, upon verification, the commission shall present the claim to the Secretary of State for audit, in like manner as other claims against the state are audited. The Secretary of State thereupon shall draw a warrant upon the State Treasurer in payment of such claim. All bonds and interest coupons surrendered to the State Treasurer upon payment thereof shall be deposited in due course by the State Treasurer with the Secretary of State. After two years from the date upon which said paid bonds and interest coupons are so deposited, the Secretary of State shall destroy them. The Secretary of State shall prepare a list of the bonds and coupons destroyed and shall file said list with the State Treasurer with certificate thereon duly signed by him that the bonds and coupons described therein were destroyed by him on the date of said certificate [1953 c 20 §6]

**366.693 Issuance of refunding bonds.** The commission hereby is authorized to issue refunding bonds for the purpose of refunding outstanding bonds issued under the provisions of ORS 366 688 to 366 697. The said refunding bonds may be sold in the same manner as other bonds are sold under authority of ORS 366 688 to 366 697. The issuance of the said refunding bonds, the maturity dates, and other details thereof, the rights of the holders thereof, and the duties of the Governor, Secretary of State and State Treasurer with respect thereto, shall be governed by the other provisions of ORS 366 688 to 366.697, in so far as such provisions are applicable. The said refunding bonds may be issued to refund bonds originally issued or to refund bonds previously issued for refunding purposes [1953 c 20 §7]

**366.694 Advertisement and manner of sale of bonds authorized by ORS 366.688 to 366.697.** The commission shall provide such method as it may deem appropriate for the advertisement by newspaper of each issue of

bonds before the issue is sold and shall require such deposit with each bid therefor as it may deem adequate to insure the fulfillment thereof. Prior to advertisement of any of the bonds for sale, the commission, in its discretion, may publish in one or more financial newspapers in the City and State of New York a statement showing the current financial condition of the State of Oregon. The advertisement of the proposed sale of the bonds shall be published for a period of not less than 10 days and shall contain a provision to the effect that the commission, in its discretion, may reject any or all bids received by it in pursuance of such advertisement. In the event of such rejection, the commission is authorized to readvertise for bids for the bonds in the form and manner herein set forth, as many times as, in the judgment of the commission, may be necessary to effect a satisfactory sale. None of the bonds may be sold at private sale, but they may be sold to the state, either in registered or in coupon form, without advertisement thereof for public sale, at such interest rate or rates, not exceeding an effective rate, computed upon a simple interest basis, of 2½ percent per annum, payable semiannually, and at such price, not lower than that herein specified, as shall be agreed upon by the State Highway Commission and the State Bond Commission. The bonds, except refunding bonds, may be sold to any bidder or to the state at a price of not less than 98 percent of the par value thereof plus the full amount, if any, of the interest accrued thereon at the date of delivery of the bonds to the purchaser or purchasers thereof. In arriving at a bid price for the bonds, the bidder may allocate to different maturities of the bonds of the issue prices of not less than 95 percent of par value of each maturity, provided that the average bid price for the bonds shall not be less than 98 percent of par value. Refunding bonds shall not be sold for less than the par value thereof and the full amount of the accrued interest thereon. [1953 c.20 §8]

**366.695 Sale of short-term bonds.** Whenever in the judgment of the commission it is in the best interest of the state and will more efficiently and adequately promote highway construction, the commission hereby is authorized and empowered to sell bonds under the provisions of ORS 366 688 to 366 697 maturing at a date not later than five years from the issue date thereof [1953 c 20 §9]

**366.696 Setting aside sufficient moneys to pay maturing bonds issued under ORS 366.688 to 366.697.** The commission hereby is authorized and directed to compute and determine in January of each year, after the sale of bonds under the provisions of ORS 366.688 to 366.697, the amount of principal and interest which will fall due during such year on bonds then outstanding and unpaid and shall maintain or hold in the State Highway Fund sufficient moneys to pay such maturing obligations. [1953 c 20 §10]

**366.697 Constitutional debt limits not to be exceeded.** No bonds shall be issued or sold pursuant to ORS 366.688 to ORS 366.697, nor indebtedness incurred thereunder, which singly or in the aggregate with previous debts or liabilities incurred for the building and maintaining of permanent roads shall exceed any limitation provided in the Constitution of the State of Oregon at the date of the issuance and sale of such bonds. [1953 c 20 §11]

**366.698 to 366.704** [Reserved for expansion]

#### INTERGOVERNMENTAL HIGHWAY COOPERATION

**366.705 Acceptance of provisions of Acts of Congress.** The State of Oregon assents to the Act of July 11, 1916, 39 Stat 355, entitled "An act to provide that the United States shall aid the states in the construction of rural post roads, and for other purposes," or Acts supplementary thereto, and accepts the provisions and benefits of any Act of Congress having for its purpose the construction, improvement or maintenance of public roads or highways in the State of Oregon

**366.710 Contracting with and submitting programs to Federal Government.** The commission may enter into all contracts and agreements with the United States Government relating to the survey, construction, improvement and maintenance of roads and highways, including county roads and city streets, submit such scheme or program of construction, improvement or maintenance as may be required by the Secretary of Agriculture, and do all other things necessary fully to carry out the cooperation contemplated and provided for by the Acts of Congress mentioned in ORS 366.705

**Note:** The Federal-aid Road Act of 1916 (39 Stat 355, 16 U S C 503, 23 U S C 15, 48), initiated federal aid for highways and placed administration under the Secretary of Agriculture. In 1949 the aid program was administered by the Bureau of Public Roads of the Department of Commerce

**366.715 Pledge of state to match federal funds.** For the construction or improvement and maintenance of rural post roads or such other roads, highways and streets as may be eligible for federal aid funds, the good faith of the state is pledged to make available funds which alone, or combined with funds made or to be made available by counties and cities, will be sufficient to match funds made available to the State of Oregon by the United States Government for highway, road or street purposes. For the purpose of evidencing such good faith the commission, in the name of the state, is authorized to enter into any and all agreements with the Federal Government under rules and regulations approved by the Secretary of Agriculture.

**366.720 Use of highway fund to match federal moneys.** The commission may use, allocate or in any manner employ for the purpose of matching any sum of money made available to the state by the Federal Government for road or highway purposes any moneys credited to the highway fund, regardless of the source from which such moneys may have been derived

**366.725 Borrowing to match federal moneys.** For the purpose of providing funds to match funds made available to the state by the Federal Government for highway purposes and for the matching of which federal funds there are no highway funds immediately available, the commission may borrow money as provided in ORS 366.605

**366.730 Meeting requirements of federal aid statutes.** The commission or officers having control of the state highways shall enter into such contracts, appoint such officers and do any other act or thing necessary to fully meet the requirements of the United States and the officers acting under the federal statutes mentioned in ORS 366.705, or of other federal aid furnished

**366.735 Using highway funds or selling bonds to comply with federal aid statutes.** (1) The commission or officers having control of the state highways shall, out of the money received in the highway funds each year from any and all sources, first set aside,

if deemed necessary or expedient, a sufficient amount to comply with the terms of the Federal Acts mentioned in ORS 366.705, and any other aid hereafter furnished by the United States for the construction of roads and highways or to match the federal aid

(2) If by reason of subsection (1) of this section there will be any deficiency in the highway funds in the judgment of the commission or officers having control of the state highways, and the funds by reason thereof will be insufficient to take care of the construction of roads and pay interest on outstanding bonds in any such year, or if the commission deems it necessary and expedient, and for the best interest of the state, to match and secure federal aid under the provisions of such statutes of the United States or other federal aid furnished by the United States to the state for roads, then the State Board of Control may each year sell the bonds of the state, under ORS 366 735 to 366 760, in such denomination as in its judgment will be most marketable and in an amount sufficient to raise enough money to equal the amount required of the state, in order to fully meet the requirements, conditions and provisions of such federal statutes and the federal officials operating under the statutes or any other aid furnished by the United States for the construction of roads and highways.

**366.740 Formal requirements and conditions of bonds issued under ORS 366.735 to 366.760.** (1) The Attorney General shall, at the request of the State Board of Control, prepare a form of interest-bearing bonds of the state, to be sold in order to provide funds for carrying out the purposes of ORS 366 735 to 366.760.

(2) The bonds referred to in subsection (1) of this section shall

(a) Be numbered serially beginning at No. 1, and be payable in the order of their issuance

(b) Be payable one-twentieth each year, commencing with the sixth year after issuance. One-half of the bonds payable each year shall be payable on April 1, and the other half on October 1.

(c) Mature within 25 years from the date of issue, and each bond shall bear upon its face a statement showing the date of its maturity.

(d) Bear interest at a rate to be fixed and determined by the Board of Control, but no bond shall be sold bearing a greater rate

of interest than six percent per year, payable semiannually on April 1 and October 1.

(e) Be in a form embodying an absolute promise of the state to pay the amount thereof in any coin or currency which, at the time of payment, is legal tender for the payment of public and private debts within the United States, and shall be in such denomination as the Board of Control elects

(f) Be signed by the Governor, Secretary of State and State Treasurer

(g) Bear coupons evidencing the interest to become due for each instalment of interest, upon which shall be printed the facsimile of the signatures of the officers named in paragraph (f) of this subsection.

(3) Principal and interest on the bonds referred to in subsection (1) of this section shall be payable at the office of the State Treasurer at Salem, and if the Board of Control so directs, the bonds may also provide for payment at some other place.

**366.745 Issuance of short-term bonds.** Whenever it will be for the good of the state, and will more efficiently and adequately promote highway construction and conserve and protect the highway funds, the Board of Control may sell short-term bonds authorized under ORS 366.735 to 366 760. These bonds shall mature at a date not later than five years from the date of sale and delivery.

**366.750 Paying or refunding with other bonds.** In the event any bonds authorized by ORS 366.735 to 366 760 are sold, the Board of Control may pay or refund them as they mature, with funds procured from the sale of other bonds under ORS 366 735 to 366.760.

**366.755 Payment of principal and interest on bonds issued under ORS 366.735 to 366.760.** (1) The Board of Control may provide an appropriate indorsement upon each of the bonds authorized by ORS 366 735 to 366 760 to the effect that they will be paid only to the owner appearing on the register, and provide a method of reregistering the bonds as the title may be transferred. It may also provide that a part or all of the bonds shall be payable to bearer and not subject to registration.

(2) Not less than 10 days before payment of the principal or interest falls due on any of the bonds authorized by ORS 366.735 to 366 760, the Board of Control shall certify to the State Treasurer the amount necessary to meet the payment. Upon receipt of the

certification the State Treasurer shall prepare and verify a claim for the amount mentioned, attaching thereto the certificate, and present the same to the Secretary of State. The Secretary of State shall audit the claim in like manner as other claims against the state are audited, and shall issue a warrant therefor payable out of any moneys in the highway fund.

(3) All bonds authorized by ORS 366 735 to 366 760 and interest coupons, upon payments, shall be deposited by the State Treasurer with the Secretary of State, to be attached to the original claim of the State Treasurer for payment.

**366.760 Advertising sale of bonds; disposing of sale proceeds.** (1) The Board of Control shall take such steps as it may deem necessary for the advertisement of each issue of bonds authorized by ORS 366 735 to 366 760 before the same are sold.

(2) The money arising from the sale of each issue of the bonds shall be deposited in the State Treasury to the credit of a special fund, subject to being paid out in carrying into effect the purposes of the Federal Acts mentioned in ORS 366 705, or other federal aid furnished, and for the purposes of ORS 366 735 to 366 760.

**366.765 Payments under cooperative agreement with U. S. Department of Agriculture.** (1) Where state or county roads are to be surveyed or constructed under the supervision of the United States Department of Agriculture with the aid of state or county funds, or both, the State Treasurer or county treasurer, or both, may advance to the United States in the manner provided in this section and ORS 368 810, the full amount set forth in the cooperative agreement, or such portion of the amount as may be specified by the Department of Agriculture at any time after the highway department or the county commissioners have entered into a cooperative agreement with the Department of Agriculture for the survey, construction or maintenance of a road under any such statute, or under any appropriation statute for the Department of Agriculture against which such expenditures may be chargeable.

(2) The advance payments shall be made to the fiscal agent of the Department of Agriculture designated by, and upon receipt of, a request for such funds from the Secretary of Agriculture or his duly author-

ized representative, if the Department of Agriculture agrees to refund to the state or county treasurer, or both, as the case may be, any amount advanced in excess of the proportionate share of the actual cost.

(3) When the state, through the commission has entered into any cooperative agreement with the Department of Agriculture for the survey or construction of any state road or highway as in this section contemplated, the commission shall prepare, verify and approve a claim in favor of the bureau of the Department of Agriculture having charge of the construction of roads and highways for the amount of the state's share of the cost of the work, accompanying the claim with a copy of the agreement. Upon presentation of the claim to the Secretary of State he shall audit and pay the same by warrant on the State Treasurer in the manner provided by law, from such funds as are available for road purposes as shall be directed by the commission.

**366.770 State highway agreements with local governments.** (1) The commission may enter into a cooperative agreement with any one or more cities, counties, road districts or other municipalities of the state for the construction, reconstruction, repair or maintenance of any state highway, and provide for an allocation of the cost of the project to the contracting parties.

(2) The commission may enter into cooperative agreements with any county for the survey, construction, improvement, reconstruction, repair or maintenance of any state highway or part thereof upon such basis of contribution as may be agreed upon between them. Any sums acquired by individual counties through the issue of bonds and expended since May 1, 1913, on roads designated as state roads, or sections thereof, are considered and treated as contributed by the county under any cooperative agreement entered into between the state and the county from and after February 19, 1917.

**366.775 Road, highway or street agreements with local governments.** The commission may enter into an agreement with any county, city, town or road district for the construction, reconstruction, improvement or repair of any road, highway or street, upon terms and conditions mutually agreed to by the contracting parties; and the commission may acquire by purchase, agreement, donation or by exercise of the power of eminent domain.

ent domain, any real property necessary for rights of way therefor [Amended by 1953 c 252 §2]

**366.780 Engineering assistance to counties.** The commission may assign to any county, when requested under ORS 368 075, engineering assistance on terms and conditions mutually agreed to by the county and the commission

**366.785 Definitions for ORS 366.785 to 366.820.** As used in ORS 366 785 to 366 820, unless the context requires otherwise

(1) "Year" means a calendar year

(2) "City" means only incorporated cities or towns of this state which are regularly operating as such through elected governmental officers.

(3) "Population" means population as given in the latest published federal census or in a census under ORS 221.730 and 221 740, except that for a city of more than 100,000 population according to the latest published federal census, the term means two-thirds of the number of population given for the city in the census, and for a city incorporated after publication of the last federal census the term means population as determined by actual count made under the supervision of the Secretary of State at the expense of the city, which population shall be regarded as the population of the city until the next federal census is published.

(4) "Maintaining city streets" means the doing of all acts necessary to keep streets in a state of repair, including the cleaning of streets and the removal of snow and debris therefrom

**366.790 Authorized use of appropriation to cities.** Money paid to cities under ORS 366 785 to 366 820 shall be used for constructing, reconstructing, improving, repairing or maintaining city streets which have not been designated as connecting links between state highways by the highway department in the manner provided by law, and may be used for the purchase and acquisition of machinery and equipment as may be necessary to maintain city streets

**366.795 When approval necessary for city expenditure.** Cities of less than 1,000 population may not expend funds allocated to them under ORS 366 785 to 366.820 unless and until plans for such expenditure have been submitted to the commission and received the written approval thereof. If such

plans are not perfected or have not received the approval of the commission within one year after the date funds are allocated to any such city, the funds shall revert to the State Treasurer to be reallocated to other cities as though they were an additional credit to the cities' appropriation under ORS 366 785 to 366 820

**366.800 Appropriation from highway fund for cities; amount and source.** There shall be and hereby are appropriated out of the highway fund annually such sums of money as will equal 10 percent of all moneys credited to the highway fund by the State Treasurer between January 1 and December 31 of each year and which have accrued from funds transferred to the highway fund by the State Treasurer under ORS 319 410, 481 540, 767 635 and from fines and penalties collected for violations of the motor vehicle and transportation laws The appropriation shall be distributed among the several cities as provided in ORS 366 785 to 366 820

**366.805 Allocation of appropriation to cities.** The appropriation specified in ORS 366 800 shall be allocated to the cities as follows

(1) The sum of \$250,000 shall be withdrawn from the appropriation each year and set up in a separate account to be administered by the commission

(2) Such account shall be spent each year by the commission upon streets not a part of the state highway system within cities which are receiving excessive wear through sudden increases in population in the area or heavy and unusual industrial traffic

(3) The commission shall determine the distribution of the expenditures after considering applications made to it therefor from the cities

(4) The balance remaining in the appropriation after the withdrawal of the \$250,000 shall be distributed to all the cities

(5) Each city shall receive such share of the balance as its population bears to the total population of the cities

**366.810 Payment of appropriation to cities.** Funds accrued and payable to cities under ORS 366.785 to 366.820 shall be remitted semiannually by the Secretary of State to the financial officer of each city The funds appropriated shall be apportioned on a semiannual basis immediately following June 30 and December 31 of each year by

the commission, which shall certify the apportionment to the Secretary of State. Upon receipt of such certificate the Secretary of State shall issue his warrants therefor payable to the cities in the amounts set out.

**366.815 City to establish state tax street fund; accumulations.** (1) A city shall set aside in a state tax street fund all money which it receives under ORS 366.785 to 366.820

(2) No money allocated to a city may be allowed to accumulate over two successive years unless the city perfects plans for a definite construction program allowable under ORS 366.785 to 366.820 which will necessitate the use of more than two years' estimated allocations. The program shall receive the approval of the highway engineer before money allocated may be accumulated. If any city accumulates allocated funds for over two years, and a definite construction program is not established, the funds shall revert to the State Treasurer to be reallocated to other cities as though they were an additional credit to the cities' appropriation under ORS 366.785 to 366.820.

**366.820 Limit to application of ORS 366.785 to 366.815.** Nothing in ORS 366.785 to 366.815 relieves the highway department of its statutory obligations with respect to the construction, reconstruction, maintenance, repair and improvement of streets or roads taken over by the state, or confers on the highway department jurisdiction or control over roads or streets benefited by ORS 366.785 to 366.815, except as provided therein.

**366.825 to 366.900** [Reserved for expansion]

#### MISCELLANEOUS PROVISIONS

**366.905 "Old Oregon Trail"; duties of commission with regard thereto.** (1) All that portion of the east and west state highway across the state, commencing at the Idaho state line at Ontario and Nyssa, through Huntington, Baker, La Grande, Pendleton, Umatilla, The Dalles, Hood River, Portland, Astoria and ending at Seaside on the Pacific Ocean, is designated as the Old Oregon Trail. That portion of the highway from The Dalles

to Astoria shall retain its identity as the Columbia River Highway section of the Old Oregon Trail. The road from Hood River, up the Hood River Valley around Mt. Hood, through Oregon City and on to Portland, shall be known as the Mt. Hood loop section of the Old Oregon Trail.

(2) The commission shall change the signs along the east and west state highway across the state to comply with this section and assist the Old Oregon Trail Association in erecting across the state, east and west, the official sign of the association bearing the design of the ox team and prairie schooner.

**366.910 End of Lewis and Clark Trail.** That portion of Broadway Street in Seaside which meets the Pacific Ocean shall be known as the end of the Lewis and Clark Trail.

**366.915 Authorization to remove Crooked River Highway from state highway system and establish new route.** Notwithstanding any other law to the contrary, the commission may remove from the state highway system the state highway designated as the Crooked River Highway, otherwise defined as State Highway No. 14, which begins at Prineville and extends southeasterly to a connection with the Central Oregon Highway. Upon the removal of the highway from the state highway system, the commission shall be under no further obligation with respect to the construction, reconstruction, maintenance or repair of the highway. Before taking such action, the commission shall, in cooperation with the county court of Crook County, provide for the location of and establish as a part of the state highway system another highway between Prineville and the Central Oregon Highway.

**366.920 to 366.980** [Reserved for expansion]

#### PENALTIES

**366.990 Penalties.** Any person, firm or corporation violating any of the regulations provided in ORS 366.350 shall be punished, upon conviction, by a fine of not more than \$500 or by imprisonment in the county jail for not more than 30 days.

#### CHAPTER 367

[Reserved for expansion]