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GENERAL PROVISIONS

366.005 General definitions. As used in this chapter and in ORS chapter 367, 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 105.760, 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 373.030.

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 instalments, 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 instalments. 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 auditor 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 necessary 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 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 $1,500,000, which sum shall be used by the highway engineer as a revolving fund.

(2) The 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 revolving fund during the preceding month and show the status of the fund at the time of the report.

[Amended by 1957 c.9 §1]

366.170 Office hours and offices of commission. (1) The offices of the commission 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 State Parks and Recreation Division. The commission shall establish under its jurisdiction and control a division to be known as the State Parks and Recreation Division.

[Amended by 1959 c.611 §1]

366.180 State Parks Superintendent, State Recreation Director and assistants. (1) The commission shall appoint a superintendent of state parks and recreation, 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 shall appoint, upon the recommendation of the State Parks Superintendent, a director of recreation, who shall be called State Recreation Director, and who shall hold office during the pleasure of the commission.

(4) The State Recreation Director 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.

(5) 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 and recreation division. The compensation, travel allowance and other expenses for such staff and other help shall be fixed by the commission.

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

[Amended by 1959 c.611 §2]

366.182 Powers and duties of State Recreation Director. (1) Under the direction of the State Parks Superintendent, the State Recreation Director shall:

(a) Study and appraise the recreation needs of this state and assemble and disseminate information relative to recreation, considering both tourist and local needs.

(b) Investigate the recreation facilities, personnel, activities and programs existing or needed in the various areas in this state and, by consultation with the appropriate public or private authorities in such areas, assist in the development and coordination of recreation facilities, activities and programs. However, the director shall not make surveys of recreation facilities, personnel, activities and programs of counties, cities, districts and other local agencies, areas and communities except upon their request.

(c) Advise, cooperate with and encourage counties, cities, districts and other local agencies, areas and communities interested in the development and use of recreation facilities, activities and programs for the public benefit.

(d) Recommend and promote standards for recreation facilities, personnel, activities and programs.

(e) Aid in recruiting, training and placing recreation personnel.

(f) Promote recreation institutes and conferences.

(2) Under the direction of the State Parks Superintendent, the State Recreation Director may:

(a) Encourage and render assistance in the promotion of training programs for volunteer and professional recreation leaders in cooperation with other public and private agencies, persons, groups, organizations and institutions interested in recreation, and encourage the establishment of standards for recreation personnel.

(b) Assist any state agency in rendering recreation services and carrying out recreation functions in conformity with the authorized powers and duties of such state agency, and encourage and assist in the coordination of federal, state and local recreation facilities, personnel, activities and programs.

[1959 c.611 §§5, 6]

366.183 Gifts and donations for park and recreation division. The commission may accept and expend, use or dispose of moneys and property from any public or private source, including the Federal Government, made available to the commission in the form of grants, gifts, devises, bequests or endowments for the purpose of carrying out any of the provisions and purposes of ORS 366.175 to 366.183 or to facilitate the carrying out of any of the functions of the State Recreation Director under ORS 366.175 to 366.183.

[1959 c.611 §7]

366.185 Additional powers and duties of highway engineer, secretary and chief counsel. In addition to their other duties and authorities, the following named officers, when expressly authorized or directed by the commission, may exercise or perform or cause to be exercised or performed any duty imposed upon or authority granted to the commission by the statutes set forth after their respective names:

(1) State Highway Engineer: ORS 366.365, 366.390, 366.440, 366.445, 366.450, 366.455, 366.465, 366.475, 374.307 to 374.320, 377.050, subsection (2) of ORS 483.040, ORS 483.520, 483.526, 483.528 and 483.532.

(2) Secretary: ORS 279.010 to 279.028 and 366.475.

(3) Chief Counsel: Subsection (1) of ORS 366.392 and ORS 366.395.

[1957 c.635 §2]

366.190 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 highways, 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) Except as may be provided by an agreement to the contrary between the commission and the county, city or political subdivision thereof which exercised jurisdiction and authority over the park, ground or place prior to acquisition by the state, the commission has complete jurisdiction and authority over all state parks, and scenic, historic or

state recreation areas, recreational grounds or places acquired by the state for recreational purposes except as otherwise provided by law.

(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.

[Amended by 1963 c.601 §1; 1965 c.368 §6]

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 a junction with the Pacific Highway near the south end of the Columbia River Bridge near Portland southerly via Oregon City and Salem to a junction with the Pacific Highway south of Salem.

[Amended by 1953 c.252 §2; 1957 c.123 §1]

366.226 Pacific Highway West. The Pacific Highway West runs from a junction with the Pacific Highway in Portland, southerly via Newberg, Corvallis and Junction City to a junction with the Pacific Highway near Eugene.

[Amended by 1953 c.252 §2; 1957 c.123 §2]

366.227 Pacific Highway. The Pacific Highway runs from the Oregon-Washington state line north of Portland, southerly through or near Portland, Salem, Albany, Eugene, Roseburg, Grants Pass, Medford and Ashland to the Oregon-California state line.

[Amended by 1953 c.252 §2; 1957 c.123 §3]

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

[Amended by 1957 c.123 §4]

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 Ontario.

Nothing in this section shall in any way repeal, amend or change ORS 366.905.
[Amended by 1953 c.252 §2; 1957 c.123 §5]

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, Newport, Florence, Coos Bay, Bandon and Gold Beach to the Oregon-California state line.
[Amended by 1957 c.123 §6]

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.
[Amended by 1955 c.6 §1]

366.238 Baker-Homestead Highway. The Baker-Homestead Highway runs from a junction with the Old Oregon Trail in Baker, easterly via Richland, Pine Valley and Copperfield to the Oregon-Idaho state line.
[Amended by 1953 c.252 §2; 1957 c.123 §7; 1959 c.202 §1]

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 Albany, easterly via Lebanon and Cascadia to a junction with the McKenzie Highway at or near Sisters.
[Amended by 1953 c.252 §2; 1957 c.123 §8]

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 west of Hood River.
[Amended by 1957 c.123 §9]

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 westerly from Albany, on the northerly side of the Willamette River, to a junction with the Pacific Highway West at or near Corvallis.
[Amended by 1953 c.252 §2; 1957 c.123 §10]

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 West south of Junction City.
[Amended by 1953 c.252 §2; 1957 c.123 §11]

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 in Portland.
[Amended by 1953 c.252 §2; 1957 c.123 §12]

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 Pacific Highway 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; 1957 c.123 §13]

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 [1953 c.252 §5; repealed by 1957 c.123 §14]

366.282 [1953 c.252 §6; repealed by 1957 c.123 §14]

366.283 [1953 c.252 §7; repealed by 1957 c.123 §14]

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]

366.323 Studies to aid in relocating persons displaced by highway acquisition. When plans of the State Highway Commission projected for one year involve acquisition of properties in any city which will require removal of 25 or more dwelling units, businesses or institutions, the State Highway Commission shall make a study of the persons residing on or maintaining businesses or institutions on property scheduled for highway acquisition. Such studies shall be kept current until the premises required for highway acquisition are vacated. The commission shall obtain such other information as it finds appropriate to aid in the relocation of persons displaced by the highway acquisition, and may extend its studies beyond city boundaries when the highway acquisition will involve dwellings, businesses or institutions within three miles of a city boundary. Such information shall be made available to the persons displaced and to other persons who may provide or assist in providing new locations. This section shall apply whether the highway acquisitions will be paid for in whole or in part from state funds either directly or by reimbursement. The State Highway Commission may contract with any governmental subdivision or agency, or with private concerns to make and maintain such studies, or may employ necessary assistants therefor.
[1959 c.648 §1; 1963 c.187 §1]

366.324 Financial assistance to persons displaced by highway acquisition. (1) When federal funds are available for payment of direct financial assistance to persons displaced by highway acquisition, the State Highway Commission may match such federal funds to the extent provided by federal law and to provide such direct financial assistance in the instances and on the conditions set forth by federal law and regulations.

(2) When federal funds are not available or used for payment of direct financial assistance to persons displaced by commission acquisition of property, the commission may provide direct financial assistance to such persons. Financial assistance authorized by this subsection shall not exceed the total amount that would have been payable under subsection (1) of this section if federal funds had been available or used. The commission may adopt rules and regulations to carry out the provisions of this subsection.
[1959 c.648 §2; 1963 c.187 §2; 1965 c.222 §1]

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 adjoining 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.

366.332 Definitions for ORS 366.332 and 366.333. As used in ORS 366.332 and 366.333:

(1) "Real property" includes any right, title or interest in real property.

(2) "Utility" means any corporation, including municipal or quasimunicipal corporation, company, individual, association of individuals, lessee, trustee or receiver, that owns, operates, manages or controls all or part of any plant or equipment in this state, whether or not such plant or equipment or part thereof is wholly within or outside any city, which plant or equipment is used, directly or indirectly:

(a) For the conveyance of telegraph or telephone messages, with or without wires;

(b) For the transportation of water, gas or petroleum products by pipelines;

(c) For the production, transmission, delivery or furnishing of heat, light, water, power, electricity or electrical impulses; or

(d) For the transmission and delivery of television pictures and sound by cables.
[1965 c.382 §2]

366.333 Acquisition of utility real property; exchange of land for right of way. (1) If real property upon which utility facilities are located is necessary for city street, public road or state highway location, relocation, construction, reconstruction, betterment or maintenance, and any portion of the real property is likewise required by the utility for the proper operation of its business, but the utility is willing to convey the real property to the state for city street, public road or state highway purposes in exchange for other real property within a reasonable distance, the state, through the commission, may acquire by purchase, agreement or by the exercise of the power of eminent domain, other real property, except that of another utility, within a reasonable distance. After having acquired such real property, the state, through the commission, may convey it to the utility in exchange for the real property required from the utility for city street, public road or state highway purposes. The difference in the value of the respective real properties shall be considered by the commission in making the exchange.

(2) ORS 366.332 and this section do not

vest in any utility any right, title or interest in any city street, public road, state highway or other public property.
[1965 c.382 §§3, 4]

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.

(3) Nothing in subsection (2) of 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, relocation, construction or betterment, and 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 within a reasonable distance, 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 within a reasonable distance. 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.
[Amended by 1965 c.383 §1]

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 or historic 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 or historic 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 or historic 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.

(3) The commission may acquire by purchase, agreement or donation real property, or any right or interest therein, deemed necessary for the culture of trees and the preservation of scenic or historic places and other objects of attraction or scenic value. The commission may in like manner acquire land and ground necessary for the development and maintenance of parks, camp sites, recreational grounds or resorts, forest or timbered areas or other places of attraction and scenic or historic value which in the judgment of the commission will contribute to the general welfare and pleasure of the public.

(4) The commission may develop, construct, improve, operate and maintain the places named in subsection (3) of this section to such an extent and in such manner as will best afford to the public necessary conveniences and accommodations, and as will contribute to the general welfare of the public.

[Amended by 1957 c.392 §1; 1963 c.601 §2]

366 350 Park and recreation regulations. (1) The commission may make regulations and provisions for the use and administration of state parks and all recreational, historic, 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, historic and scenic places.

(2) The commission may make regulations necessary to carry out the provisions of ORS 366.175 to 366.183.

[Amended by 1959 c.611 §3; 1963 c.601 §3]

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 Procedure. (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 and shall allege the true value of the real property and the damage resulting from the appropriation thereof.

(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 shall 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. Evidence shall be received and the trial conducted in the order and manner prescribed in ORS chapter 17, except the order of argument shall be as provided in subsection (5) of this section.

(5) After the evidence is heard, unless the case is submitted by both sides to the jury without argument, the defendant shall open and close the argument to the jury. The defendant may waive the opening argument, and if the plaintiff then argues the case to the jury, the defendant may reply to the argument of the plaintiff, but may not otherwise argue to the jury.

(6) The court shall then charge the jury and the verdict of the jury shall be given.

(7) 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.

(8) 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.

(9) 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.

[Amended by 1957 c.656 §1; 1959 c.339 §1]

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.

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 becomes 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; not to bear interest. (1) 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.

(2) Upon the deposit in court by the State Highway Commission of the estimated amount of just compensation, as provided in subsection (1) of this section, no interest shall be allowed thereon in any verdict or final judgment.

[1953 c.621 §1; subsection (2) enacted as 1961 c.404 §1]

366.393 Court may distribute advance payments to persons entitled thereto; acceptance not a waiver. (1) 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.

(2) Any person or persons entitled to withdraw any or all of said deposit, as provided in subsection (1) of this section, may do so at any time without waiving rights of appeal provided for in subsection (8) of ORS 366.380.

[1953 c.621 §2; subsection (2) enacted as 1961 c.404 §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 competitive 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 purchased 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 contruction 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 such directional road and other signs on the state highways at such places and of such material and design as it selects.
[Amended by 1957 c.663 §1]

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 367.236 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.

Note: 1965 c.28, which relates to emergency road and street repairs, has not been compiled because it is temporary. 1965 c.28 §§2 to 5 provide:

Sec. 2. (1) Notwithstanding any limitations otherwise imposed by law, there hereby is transferred from the State Highway Fund to the Emergency Road and Street System Repair Account, hereby established within the highway fund and referred to in this Act as the "emergency account," the sum of $5 million.

(2) All moneys deposited in the emergency account, from whatever source, hereby are appropriated for the purpose of making advance payments to counties and cities of amounts estimated to be necessary to restore their road, street and bridge systems at least to the condition thereof prior to the time damage resulting from the floods in December 1964 and January 1965 was sustained.

(3) Advance payments to counties and cities shall be expended only for the purpose specified in subsection (2) of this section and as further limited by any direction of the State Highway Engineer. Receipt, expenditure and repayment of advance payments, and other fiscal operations of a county or city as they relate to advance payments and repayments, are not subject to ORS 294.305 to 294.520, the Local Budget Law.

Sec. 3. (1) By not later than June 30, 1965, any county or city may apply for an advance payment from the emergency account. Applications shall contain such information and shall be submitted in such form and manner as the State Highway Engineer requires.

(2) Until July 1, 1966, and subject to the limitation of subsection (3) of this section, the State Highway Engineer may authorize disbursements to counties and cities from the emergency account, to be made at times and in amounts he determines.

(3) The total of advance payments for use by any one county or city shall not exceed in the aggregate an amount that is estimated by the State Highway Engineer to be entirely repayable, within the five-year period described in subsection (1) of section 4 of this Act, from moneys available or to be available to the county or city under 64 Stat. 1109 (1950), or any other federal law making moneys available to the counties or cities for use for restoration of their road, street and bridge systems, and under ORS 366.525 or 366.800.

Sec. 4. (1) Each county or city receiving any advance payments from the emergency account shall fully repay the advance payments within five years from the date of the disbursement first made to the county or city from the account, or within five years from July 1, 1965, whichever date is the later. A county or city may cause repayments to be made from any moneys, federal, state or local, available for construction, reconstruction, improvement, maintenance or repair of its road, street and bridge system.

(2) Repayments on behalf of a county or city shall be scheduled or rescheduled by the State Highway Engineer, taking into consideration the limitations specified in subsection (3) of section 3 of this Act.

(3) Until July 1, 1966, repayments made on behalf of the counties or cities for advance payments from the emergency account shall be credited to the emergency account. On and after July 1, 1966, repayments shall be credited to the State Highway Fund; and as of July 1, 1966, any moneys in the emergency account not authorized for disbursement thereafter shall be transferred to the State Highway Fund.

Sec. 5. In case repayments made on behalf of any county or city are not made to meet the repayment schedule established pursuant to subsection (2) of section 4 of this Act, there may be withheld, from payments due the county or city under ORS 366.525 to 366.540 or 366.785 to 366.820, amounts necessary to meet the repayment schedule.

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, 481.950, 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, semitrailers, pole trailers and pole or pipe dollies registered from each county during the preceding calendar 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 Department of Motor Vehicles 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. Upon request, the Director of the Department of Motor Vehicles shall certify to the Secretary of State the information necessary in order that the Secretary of State may comply with this section.
[Amended by 1955 c.43 §1; 1955 c.287 §23]

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 Grants for local marine parks and facilities. (1) The commission may:

(a) Make grants of moneys from the highway fund to cities, counties or other units of local government in this state for the development or construction by those units of marine parks and facilities in areas adjacent to, along or in close proximity to state highways, or which may be conveniently reached from or by a state highway.

(b) Lease to recipients of grants portions of rights of way of state highways to be used for those parks and facilities.

(c) Require, as a condition to making a grant, that the recipient provide funds for the development or construction of the park or facility in an amount not exceeding 50 percent of the cost of the development or construction.

(d) Require, as a condition to making a grant, that the recipient assume all or partial responsibility for the operation and maintenance of the park or facility.

(2) Any city, county or other unit of local government in this state may accept and use a grant made by the commission or enter into a lease with the commission under subsection (1) of this section, subject to the conditions upon which the grant or lease is made.
[1965 c.634 §3]

366.550 to 366.600 [Reserved for expansion]

366.605 [Renumbered 367.105]

366.610 to 366.620 [Reserved for expansion]

366.625 [Renumbered 367.202]

366.627 [Renumbered 367.204]

366.629 [Renumbered 367.206]

366.631 [Renumbered 367.208]

366.633 [Renumbered 367.210]

366.635 [Renumbered 367.212]

366.637 [Renumbered 367.214]

366.639 [Renumbered 367.216]

366.641 [Renumbered 367.218]

366.643 [Renumbered 367.220]

366.645 [Renumbered 367.226]

366.650 [Renumbered 367.228]

366.655 [Renumbered 367.230]

366.660 [Renumbered 367.232]

366.665 [Renumbered 367.234]

366.670 [Renumbered 367.236]

366.675 [Renumbered 367.238]

366.680 [Renumbered 367.240]

366.685 [Renumbered 367.242]

366.688 [1953 c.20 §2; renumbered 367.252]

366.689 [1953 c.20 §3; renumbered 367.254]

366.690 [1953 c.20 §4; renumbered 367.256]

366.691 [1953 c.20 §5; renumbered 367.258]

366.692 [1953 c.20 §6; renumbered 367.260]

366.693 [1953 c.20 §7; renumbered 367.262]

366.694 [1953 c.20 §8; renumbered 367.264]

366.695 [1953 c.20 §9; renumbered 367.266]

366.696 [1953 c.20 §10; renumbered 367.268]

366.697 [1953 c.20 §11; renumbered 367.270]

366.6980 [1957 c.22 §1; renumbered 367.282]

366.6981 [1957 c.22 §2; renumbered 367.284]

366.6982 [1957 c.22 §3; renumbered 367.286]

366.6983 [1957 c.22 §4; renumbered 367.288]

366.6984 [1957 c.22 §5; renumbered 367.290]

366.6985 [1957 c.22 §6; renumbered 367.292]

366.6986 [1957 c.22 §7; renumbered 367.294]

366.6987 [1957 c.22 §8; renumbered 367.296]

366.6988 [1957 c.22 §9; renumbered 367.298]

366.6989 [1957 c.22 §10; renumbered 367.300]

366.6990 [1957 c.22 §11; renumbered 367.302]

366.6991 to 366.6999 [Reserved for expansion]

366.7000 [1957 c.354 §1; renumbered 367.324]

366.7001 [1957 c.354 §2; renumbered 367.326]

366.7002 [1957 c. 354 §3; renumbered 367.328]

366.7003 [1957 c.354 §4; renumbered 367.330]

366.7004 [1957 c.354 §5; renumbered 367.332]

366.7005 [1957 c.354 §6; renumbered 367.334]

366.7006 [1957 c.354 §7; renumbered 367.336]

366.7007 [1957 c.354 §8; renumbered 367.338]

366.7008 [1957 c.354 §9; renumbered 367.340]

366.7009 [1957 c.354 §10; renumbered 367.344]

366.7010 [1957 c.354 §11; renumbered 367.346]

366.7011 to 366.7019 [Reserved for expansion]

366.7020 [1959 c.386 §1; renumbered 367.365]

366.7021 [1959 c.386 §2; 1961 c.345 §1; renumbered 367.370]

366.7022 [1959 c.386 §3; renumbered 367.380]

366.7023 [1959 c.386 §4; renumbered 367.385]

366.7024 [1959 c.386 §5; 1961 c.381 §3; renumbered 367.390]

366.7025 [1959 c.386 §6; renumbered 367.395]

366.7026 [1959 c.386 §7; renumbered 367.400]

366.7027 [1959 c.386 §8; renumbered 367.405]

366.7028 [1959 c.386 §9; renumbered 367.410]

366.7029 [1959 c.386 §10; 1961 c.345 §2; renumbered 367.415]

366.7030 [1959 c.386 §11; renumbered 367.420]

366.7031 to 366.7040 [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) initiated federal aid for highways and placed administration under the Secretary of Agriculture. Since 1949 the aid program has been 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.

Note: See note under ORS 366.710.

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 367.105.

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 to comply with federal aid statutes. The commision 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.

[Part renumbered 367.155]

366.740 [Renumbered 367.160]

366.745 [Renumbered 367.165]

366.750 [Renumbered 367.170]

366.755 [Renumbered 367.175]

366.760 [Renumbered 367.180]

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 authorized 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.

Note: See note under ORS 366.710.

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, 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 cities of this state which are regularly operating as such through elected governmental officers.

(3) "Population" means population as given in the latest determination of the State Board of Higher Education, except that for a city of more than 100,000 population according to the latest such determination, the term means 74 percent of the number of population given for the city in the determination for computation of its share for 1964, 78 percent for computation of its share for 1965, 82 percent for 1966, 86 percent for 1967, 90 percent for 1968, 94 percent for 1969, 98 percent for 1970; and for 1971 and subsequent years computation shall be made on the basis of full number of population.
[Amended by 1961 c.259 §2; 1961 c.653 §1; 1963 c.399 §1]

366.790 Authorized use of appropriation to cities. Money paid to cities under ORS 366.785 to 366.820 shall be used only for the purposes stated in Section 3, Article IX of the Oregon Constitution.
[Amended by 1961 c.653 §2]

366.795 [Repealed by 1955 c.237 §1]

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, 481.950, 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 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.

[Amended by 1959 c.170 §1]

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 Staff and consultant for administering grants to museums. (1) Subject to subsection (2) of this section, the commission shall employ, in accordance with the State Civil Service Law, the staff necessary to assist them in carrying out the provisions of ORS 358.710 to 358.770.

(2) The commission may engage on an independent-contractor basis a qualified consultant to make in his professional capacity, a special and temporary survey and investigation concerning the eligibility of a county to receive a matching fund grant as authorized by ORS 358.760 and to make his recommendations in connection therewith.
[1965 c.572 §8]

366.930 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.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on November 15, 1965.

Sam R. Haley
Legislative Counsel