

# Chapter 351

1991 EDITION

## Higher Education Generally

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**EDUCATION AND CULTURAL FACILITIES**

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**DEPARTMENT OF HIGHER  
EDUCATION  
(State Board)**

**351.010 State Board of Higher Education.** The Department of Higher Education shall be conducted under the control of a board of 11 directors, to be known as the State Board of Higher Education. Two shall be students admitted at different public institutions of higher education in Oregon at the time of their appointment. [Amended by 1973 c.379 §1]

**351.020 Directors; appointment; confirmation.** The directors shall be citizens of Oregon and shall be appointed by the Governor. The appointment is subject to the confirmation of the Senate in the manner provided by ORS 171.562 and 171.565. No director who is not a student at the time of appointment may be an employee of any of the institutions or departments under the control of the State Board of Higher Education, nor shall more than seven graduates of or students admitted at these institutions, nor more than three graduates of or students admitted at any one of these institutions or departments, be members of the board at any time. To assist the Governor in making appointments of the student members provided in ORS 351.010, the duly organized and recognized entities of student government at each state institution of higher education shall submit a list of nominees to the Governor. The entities are entitled to no more than three nominees per school. The Governor shall consider this list in the selection of student members to the State Board of Higher Education. [Amended by 1955 c.284 §1; 1969 c.695 §6; 1973 c.379 §2]

**351.030** [Repealed by 1961 c.167 §38 (171.560 enacted in lieu of 351.030)]

**351.040 Term, removal; compensation and expenses of directors.** (1) Directors shall hold office for a term of four years except for directors who are students at the time of appointment, whose terms shall be two years. All terms begin July 1 of the year of appointment. No person may be appointed to serve consecutively more than two full terms as a director. Any person appointed to fill a vacancy occurring prior to the expiration of any term shall be appointed for the remainder of such term.

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

(3) The directors are entitled to compensation and expenses as provided in ORS 292.495. [Amended by 1961 c.167 §41; 1967 c.530 §8; 1969 c.314 §25; 1971 c.485 §3; 1973 c.379 §3]

**351.050 Officers; meetings; quorum.**

The board shall organize by the election from its members of a president who shall serve for the fiscal year for which the president is elected. The board shall meet regularly once every three months at such times and places as the president may determine. Special meetings may be called by the president upon the written request of any six members of the board. Six members shall constitute a quorum for the transaction of business. [Amended by 1973 c.379 §4]

**351.060 Board general powers as to control and management of property; power as to litigation.** The State Board of Higher Education may:

(1) Control and provide for, subject to the conditions of this section, the custody and occupation of the grounds, buildings, books, papers and documents belonging to each and all the institutions, departments or activities under the control of the State Board of Higher Education.

(2) Manage, control and apply all property of whatever nature given to or appropriated for the use, support or benefit of any or all of the institutions, departments or activities under the control of the State Board of Higher Education, according to the terms and conditions of such gift or appropriation. Moneys received under this section shall be deposited with the State Treasurer in an account or fund separate and distinct from the General Fund. Interest earned by the account or fund shall be credited to the account or fund.

(3) Erect, improve, repair, maintain, equip and furnish buildings, structures and lands for higher education.

(4) Acquire, receive, hold, control, convey, sell, manage, operate, lease, lend, invest, improve and develop any and all property, real or personal:

(a) Given to any of the institutions, departments or activities under the control of the State Board of Higher Education by private donors, whether such gifts are made to the State Board of Higher Education or to the State of Oregon; or

(b) Acquired by any other method or from any source by the State Board of Higher Education for the benefit of any of the institutions, departments or activities under the control of the board, subject, however, to the applicable provisions of ORS 273.413 to 273.461 and 351.210.

(5) Take and hold mortgages on real and personal property acquired by way of gift or arising out of transactions entered into in accordance with the powers, duties and au-

thority given to the board by this section, ORS 351.070 and 351.150.

(6) Institute, maintain and participate in suits and actions and other judicial proceedings, in the name of the State of Oregon, for the foreclosure of such mortgages or for the purpose of carrying into effect any and all of the powers, duties and authority given to the State Board of Higher Education by this section, ORS 351.070 and 351.150. [Amended by 1959 c.570 §1; 1975 c.771 §31a; 1985 c.443 §6; 1989 c.966 §33]

**351.065 Consent of, access to and control of personnel records.** (1) The State Board of Higher Education may, for each institution, division and department under its control adopt rules and specific orders by or through the institutional executive of each institution governing access to personnel records of the institution, division or department, which are less than 25 years old.

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

(3) No rule or order promulgated pursuant to this section shall deny to a faculty member full access to the member's personnel file or records kept by the board or its institutions, schools or departments, except as provided in paragraphs (d) and (e) of this subsection.

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

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

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

(d) Letters and other information submitted in confidence to the board or its institutions, schools or departments prior to July 1, 1975, shall be maintained in the files designated. However, if a faculty member re-

quests access to those files, the anonymity of the contributor of letters and other information obtained prior to July 1, 1975, shall be protected. The full text shall be made available except that portions of the text which would serve to identify the contributor shall be excised by a faculty committee. Only the names of the contributors and the excised portions of the documents may be kept in a file other than the three prescribed by paragraph (a) of this subsection.

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

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

(g) After July 1, 1975, the board, its institutions, schools or departments when evaluating its employed faculty members shall not solicit nor accept letters, documents or other materials, given orally or in written form, from individuals or groups who wish their identity kept anonymous or the information they provide kept confidential.

(4) No rule or order promulgated pursuant to this section limits the authority of the institution, division or department to prepare, without identification of individual persons who have not consented thereto, statistical or demographic reports from personnel records.

(5) Any category of personnel records specifically designated as confidential pursuant to valid rules or orders pursuant to this section shall not be deemed a public record for the purposes of ORS 192.420.

(6) As used in this section, "personnel records" means records containing information kept by the institution, division or de-

partment concerning a faculty member and furnished by the faculty member or by others about the faculty member at the member's or at the institution, division or department's request, including, but not limited to, information concerning discipline, membership activity, employment performance or other personal records of individual persons. [1971 c.566 §1; 1975 c.317 §1; 1979 c.159 §1]

**351.067 Compensation for officers and employees from other sources may be authorized when reporting required; rules relating to outside employment and activities.** (1) In carrying out its authority under ORS 351.070, the State Board of Higher Education may authorize receipt of compensation for any officer or employee of the State System of Higher Education from private or public resources, including, but not limited to, income from:

- (a) Consulting;
- (b) Appearances and speeches;
- (c) Intellectual property conceived, reduced to practice or originated and therefore owned within the state system;
- (d) Providing services or other valuable consideration for a private corporation, individual, or entity, whether paid in cash or in-kind, stock or other equity interest, or anything of value regardless of whether there is a licensing agreement between the state system and the private entity; and
- (e) Performing public duties paid by private organizations, including institution corporate affiliates, which augment an officer's or employee's publicly funded salary. Such income shall be authorized and received in accordance with policies and rules established by the board.

(2) The board shall not authorize compensation, as defined in subsection (1) of this section, that, in the board's judgment, does not comport with the mission of the institution and the higher education system or substantially interferes with an officer's or employee's duties to the state system.

(3) Any compensation, described and authorized under subsection (1) of this section, shall be considered official salary, honorarium or reimbursement of expenses for purposes of ORS 244.040. If authorization or receipt of such compensation creates a potential conflict of interest, the potential conflict shall be reported in writing in accordance with rules of the state board. The disclosure is a public record subject to public inspection.

(4) The state board shall adopt by rule standards governing employee outside employment and activities, including potential

conflict of interest, as defined by state board rule and consistent with ORS 244.020 (8), and the public disclosure thereof, and procedures for reporting and hearing potential or actual conflict of interest complaints. [1989 c.1090 §2; 1991 c.614 §1]

**Note:** 351.067 was added to and made a part of ORS chapter 351 by legislative action but was not added to any series therein. See Preface to Oregon Revised Statutes for further explanation.

**351.070 Board general powers as to higher education and institutions; student records.** (1) The State Board of Higher Education may, for each institution under its control:

(a) Appoint and employ a president and the requisite number of professors, teachers and employees, and prescribe their compensation and tenure of office or employment.

(b) Demand and receive the interest mentioned in ORS 352.510 and all sums due and accruing to the institutions of higher education for admission and tuition therein, and apply the same, or so much thereof as is necessary, to the payment of the compensation referred to in paragraph (a) of this subsection and the other current expenses of the institutions.

(c) Prescribe fees for enrollment into the institutions. Such enrollment fees shall include tuition for education and general services and such other charges found by the board to be necessary to carry out its educational programs.

(d) Prescribe incidental fees for programs under the supervision or control of the board found by the board, upon its own motion or upon recommendation of the recognized student government of the institution concerned, to be advantageous to the cultural or physical development of students. Fees realized in excess of amounts allocated and exceeding required reserves shall be considered surplus incidental fees and shall be allocated for programs under the control of the board and found to be advantageous to the cultural or physical development of students by the institution president upon the recommendation of the recognized student government at the institution concerned.

(e) Upon recommendation of the recognized student government, collect optional fees authorized by the institution executive, for student activities not included in paragraph (c) or (d) of this subsection. The payment of such optional fees shall be at the option and selection of the student and shall not be a prerequisite of enrollment.

(f) Confer, on the recommendation of the faculty of any such institution, such degrees as usually are conferred by such institutions, or as they deem appropriate.

(g) Prescribe the qualifications for admission into such institutions.

(2) Subject to such delegation as the state board may decide to make to the institutions, divisions and departments under its control, the State Board of Higher Education, for each institution, division and department under its control, shall:

(a) Supervise the general course of instruction therein, and the research, extension, educational and other activities thereof.

(b) Adopt rules and bylaws for the government thereof, including the faculty, teachers, students and employees therein.

(c) Maintain cultural and physical development services and facilities therefor and, in connection therewith, may cooperate and enter into agreements with any person or governmental agency; and may provide student health services and contract therefor.

(d) Except as otherwise provided by law, prescribe and collect charges for services rendered to any person or entity.

(e) Pursuant to the procedures described in ORS 351.065, adopt rules relating to the use of and access to student records of the institutions including the opportunity to challenge inaccurate information placed in student records. However, except for directory information, records containing information kept by the institution, division or department concerning a student and furnished by the student or by the institution, division or department, including, but not limited to, information concerning discipline, counseling, membership activity, academic performance or other personal matters, shall not be available to public inspection or disclosure for any purpose except with the written consent of the student who is the subject of the record or upon order of a court of competent jurisdiction or, in an emergency, to appropriate persons if such information is necessary to protect the health or safety of the student or other persons. Nothing contained in this paragraph prohibits authorization of the inspection of such records by institution officials or employees who have a legitimate educational interest in inspecting student records, or by any representative of a state or federal governmental agency that is required by law to inspect student records. Rules may be adopted permitting release of personally identifiable information in connection with financial aid for which a student has applied or which a student has received. Directory information shall be defined by rules adopted by the State Board of Higher Education.

(3) For each institution under its jurisdiction, the State Board of Higher Education

shall provide opportunities for part-time students to obtain complete undergraduate degrees at unconventional times, which include but are not limited to early morning and noon hours, evenings and weekends. In administering these degree programs, the institution may use any educational facility available for the use of the institution. The degree programs shall be self-supporting.

(4) As used in subsection (2) of this section, "legitimate educational interest" means the demonstrated need to know by those officials of an institution who act in the student's educational interest, including faculty, administration, clerical and professional employees, and persons who manage student record information. [Amended by 1953 c.545 §2; 1971 c.375 §1; 1971 c.708 §9; 1973 c.331 §1; 1979 c.159 §2; 1989 c.308 §1; 1989 c.311 §1; 1989 c.492 §1]

**351.072 Adoption of certain standards not subject to rulemaking procedures; limitations.** (1) Notwithstanding ORS 183.310 to 183.550, the following actions may be taken by the State Board of Higher Education or the educational institutions under its control without compliance with the rulemaking provisions of ORS 183.310 to 183.550:

(a) Adoption of standards, regulations, policies or practices relating primarily to admissions, academic advancement, classroom grading policy, the granting of academic credits, granting of degrees, scholarships and similar academic matters.

(b) Adoption of fees or fee schedules relating to charges for symposiums, conferences, short courses, food, books or other retail goods, prices of admission to athletic, entertainment or cultural events or advertising rates in student or institutional publications. However, student loan service charges, charges levied as penalties for prohibited conduct, general tuition, building fees, incidental fees, health service fees and residence hall and housing charges shall be adopted in accordance with the provisions of ORS 183.310 to 183.550.

(2) Any standards, regulations, policies, practices or fees adopted under this section by the State Board of Higher Education or by any of the educational institutions under its control shall be reduced to writing and made available to interested persons upon request. [1979 c.593 §31; 1989 c.492 §4]

**351.073 Nonresident tuition in post-secondary educational institutions.** The Legislative Assembly finds that:

(1) It is in the interest of this state and its people that Oregon residents have access to the post-secondary institutions in the Northwest which best provide for the educational needs of those students;

(2) The people of Oregon and their post-secondary institutions benefit through the provision of access to Oregon colleges and universities for students from the state of Washington and from the enhanced economic and cultural well-being of the northwest region;

(3) The state should reduce or eliminate the nonresident tuition barriers which might exist between the states of Oregon and Washington to restrict or inhibit enrollment of residents of one of these states in a community college or public college or university in the other state;

(4) The general policy statement on reduction of admission and tuition barriers between the states of Oregon and Washington shall not apply to students at the Oregon Health Sciences University, where enrollment priority shall continue to be given to qualified Oregon residents; and

(5) The State Board of Higher Education and the State Board of Education shall develop plans to carry out the intent of this policy within the appropriations available, and shall report to the appropriate legislative review agency before implementing the plan. [1985 c.698 §1]

#### (Chancellor)

**351.075 Chancellor of State Board of Higher Education; appointment; qualifications; compensation.** (1) The State Board of Higher Education shall appoint a chief executive officer who shall be known as the Chancellor of the State Board of Higher Education and who shall serve at the pleasure of the board. The board may appoint one or more assistants as may be necessary.

(2) The chancellor and the assistants of the chancellor shall be persons who by training and experience are well qualified to perform the duties of their offices and to assist in carrying out the functions of the board under ORS 351.010 to 351.070, 351.075 to 351.260, 351.305 to 351.615, 351.770 to 351.840, 352.002 to 352.006, 352.010 to 352.055, 352.065 (1985 Replacement Part), 352.230, 352.360, 352.370, 352.390, 352.400 and 352.510 to 352.760.

(3) The State Board of Higher Education shall fix the compensation of the chancellor and the assistants of the chancellor. [1971 c.708 §10]

**351.077 Implementation of minority teacher recruitment plans.** (1) The office of the Chancellor of the State System of Higher Education shall assure that the plans developed for minority teacher, as defined by ORS 342.433, recruitment are implemented.

(2) The chancellor shall report biennially to the State Board of Higher Education and

the Legislative Assembly on the implementation and results of the plans. The report may include recommendations on ways in which the Legislative Assembly can assist in increasing the number of minority teachers. [1991 c.434 §5]

**Note:** 351.077 was not added to and made a part of 351.075 to 351.260 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**351.080** [Repealed by 1961 c.238 §1]

**351.085 Duties and powers of chancellor.** The Chancellor of the State Board of Higher Education shall exercise, under the direction of the State Board of Higher Education, the administrative authority necessary to carry out the policies of the board with respect to the institutions, departments or activities under the control of the board. In carrying out the duties of the chancellor, the chancellor shall:

(1) Act as administrative officer of the State Board of Higher Education.

(2) Maintain a centralized service program for all institutions, departments and activities, including but not limited to, accounting, statistical services, capital construction, management analysis, legal services, academic affairs and educational research.

(3) Collect and compile information and statistics relative to the operation of the institutions, departments and activities of the State Board of Higher Education.

(4) Prepare and submit to the State Board of Higher Education an annual operating budget for all institutions, departments and activities of the board.

(5) Oversee the preparation and submission to the State Board of Higher Education of the biennial budget requests of the institutions, departments and activities for consideration by the board as the budget request to the Governor under ORS 351.090. The chancellor shall provide analyses of the budget requests of the institutions, departments and activities, including in such analyses alternative considerations as may be necessary or desirable for the board in the adoption of its budget request.

(6) Appoint, subject to the State Personnel Relations Law, and with the approval of the State Board of Higher Education, such personnel as may be necessary for the performance of the duties of the chancellor.

(7) Designate, if the chancellor wishes, one or more suitable persons to sign or countersign warrants, vouchers, certificates, or other papers and documents requiring the signature of the chancellor.

(8) Prepare the agendas for State Board of Higher Education meetings and provide an analysis of proposals made to the board, in-

cluding such alternatives as may be necessary or desirable for their consideration, and make recommendations thereon.

(9) Prepare and submit to the State Board of Higher Education on or about December 31 of each year an annual report in which the chancellor describes the principal activities of the Department of Higher Education during the fiscal year ending June 30. The report shall include a statement of 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 number of students enrolled in each institution, department or activity, the number of degrees conferred, the improvements made and new courses of instruction added, together with a statement showing in a general way the status of all activities and functions of the State Board of Higher Education.

(10) Keep a record of the transactions of the State Board of Higher Education.

(11) Have the custody of all books, papers, documents and other property belonging to the State Board of Higher Education.

(12) Give such instructions as may be necessary to carry out the directives of the State Board of Higher Education and forward them to the various institution presidents and heads of departments and activities.

(13) Provide for meetings of the presidents and principal executives of the institutions, departments and activities, at such times as the State Board of Higher Education may direct, such meetings to be open to any member of the board. At such meetings, the executives of the Department of Higher Education may propose policies or policy changes or statements for consideration by the board and develop recommendations concerning allocations of funds.

(14) The chancellor shall perform such other administrative assistance and consider other administrative matters as the State Board of Higher Education may require. [1971 c.708 §11; 1987 c.158 §62]

#### (Administration)

**351.090 Standardization of accounts and records; preparation of budget; allocation of funds.** The board of higher education shall prescribe for all state-supported higher educational institutions a standardized system of accounts and records. The board shall prepare biennially, at such time as the Governor shall require, a report to the Governor containing the proposed budget for the succeeding biennium covering in detail the purposes for which all expenditures shall be made. In preparation of this budget the

board may allocate to the respective institutions over which it is authorized to exercise supervision and control all funds then available and all funds which under laws then existing become available during the succeeding biennium from all sources, so far as they can be ascertained, in accordance with the board's higher educational development program.

**351.095** [1971 c.708 §8; repealed by 1983 c.194 §1]

**351.100 Advertising and publicity.** All advertising and publicity on behalf of all branches of state-supported higher education shall emanate from and bear the name of the Department of Higher Education, and shall be conducted in such a way as to present to the citizens of the state and prospective students a fair and impartial view of the higher educational facilities provided by the state and the prospects for useful employment in the various fields for which those facilities afford preparation.

**351.105 Minimum course content for alcohol and drug abuse programs.** In order to carry out the duties described in ORS 352.008, the State Board of Higher Education, in consultation with the office of Alcohol and Drug Abuse Programs, shall adopt by rule, as a minimum, descriptions of the content of what shall be included in the policy and plan described in ORS 352.008. [1989 c.1076 §5]

*Note:* 351.105 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 351 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**351.110 Relationship with state legislature.** All relationships and negotiations between the state legislature and its various committees and the institutions of higher education shall be carried on through the Department of Higher Education. No subordinate official representing any of the separate institutions shall appear before the legislature or any committee except upon the written authority of the board of higher education.

**351.115 Four-year and five-year options for teacher education programs.** The Oregon State System of Higher Education shall offer a diversity of teacher education programs, inclusive of four-year and five-year options for completion of the programs. Both of these options shall qualify for teacher licensing of persons completing the programs. [1989 c.690 §2]

*Note:* 351.115 was added to and made a part of ORS chapter 351 by legislative action but was not added to any series therein. See Preface to Oregon Revised Statutes for further explanation.

**351.120** [Amended by 1959 c.564 §14; renumbered 351.605 and then 348.210]

**351.130 Encouragement of gifts to institutions; Higher Education Donation Fund; use of gifts.** (1) The board of higher education shall encourage gifts to the institutions by faithfully devoting such funds to the institution for which intended. All gifts and donations received are appropriated to be used in accordance with the terms of the gift. Such gifts shall be placed by the State Treasurer to the credit of a separate fund to be known as the Higher Education Donation Fund, separate and distinct from the General Fund.

(2) Subject to the terms of the gift, such gifts to the Department of Higher Education may be invested in securities which constitute legal investments for trust funds held for charitable or educational purposes, in lawfully issued interest-bearing bonds or obligations of the State of Oregon and in real property. The State Treasurer shall credit to the Higher Education Donation Fund any interest or other income derived from the investment of such fund.

(3) The interest, income, dividends or profits received on any property or funds of the Department of Higher Education derived from gifts, legacies, devises, bequests or endowments are continuously appropriated to the use, maintenance and support of the Department of Higher Education in the same manner as the principal or corpus of each such gift or donation in accordance with the terms of the gift.

(4) As used in this section, "gifts" includes funds donated to the Department of Higher Education to which by agreement the donor receives consideration in return for the gift or retains a reversionary interest but does not include grant or contract funds received from government sources. [Amended by 1987 c.102 §2; 1989 c.966 §34]

**351.140 Board power to purchase real property.** (1) The State Board of Higher Education may purchase such real property as in its sole discretion may be necessary for the present or future development of any of the schools or institutions under its jurisdiction. The board may enter into contracts of purchase or agreements which it deems necessary in carrying out this authorization.

(2) The board may apply any funds coming into its hands, and applicable thereto, toward the purchase of property authorized under this section. The board may also mortgage or pledge any property so purchased, or its contracts to purchase, or in relation thereto, together with the income from such property, to secure the payment of the purchase price thereof.

**351.150 Title to institution realty; conveyances.** Legal title to all real property

acquired by any of the institutions under the control of the State Board of Higher Education shall be taken and held in the name of the State of Oregon. Legal title to all real property heretofore or hereafter conveyed to any such institutions shall be deemed to be conveyed to and vested in the State of Oregon. Authorized conveyances of all real property acquired by or vested in the State of Oregon for the use or benefit of any such institutions, other than the university lands referred to in ORS 273.251, shall be executed in the name of the State of Oregon by the president and secretary of the board of higher education. Nothing in this section or in ORS 351.060 shall be considered as exempting such property from taxation.

**351.153 "Structure" defined.** As used in ORS 351.160, 351.170, 351.180, 351.350, 351.440 and 351.450, "structure" includes, but is not limited to, paving, sidewalks, curbs, gutters, sewers, drainage works, vehicular parking facilities, lighting facilities, retaining walls and other constructed or erected improvements to real property. [1971 c.361 §2]

**351.155 Authority to sell forest products on institution realty.** Notwithstanding the applicable provisions of ORS 279.025 to 279.031, 279.310 to 279.356 and 279.400 to 279.990, the State Board of Higher Education may, in the management of all forestlands under its control and supervision, sell the forest products on such lands in the same manner as is provided in ORS 530.059, and for that purpose the State Board of Higher Education shall have the same powers with respect to experimental or research projects in the field of forestland management or for forest product utilization on forestlands under its control as the State Forester has pursuant to the provisions of ORS 530.050 and 530.059. [1961 c.134 §1]

**351.160 Building construction.** (1) The board of higher education may undertake the construction of any building or structure for higher education when, in the judgment of the board, it appears that the building or structure will be wholly self-liquidating and self-supporting from revenues to accrue from the operation thereof and from gifts, grants or building fees, and from unobligated revenues of buildings or projects of like character. The board may enter into contracts for the erection, improvement, repair, equipping and furnishing of buildings and structures for dormitories, housing, boarding, off-street motor vehicle parking facilities and other purposes for higher education pursuant to Article XI-F (1) of the Oregon Constitution, ORS 351.160 to 351.190, 351.350 to 351.460 and 351.490.

(2) The board may also undertake the construction of those buildings and struc-

tures that are designated by the Legislative Assembly for higher education institutions and activities, and may enter into contracts with persons, firms or corporations for the erection, improvement, repair, equipping and furnishing of such buildings and structures pursuant to Article XI-G of the Oregon Constitution and ORS 351.345. [Amended by 1963 c.573 §5; 1963 c.584 §2; 1991 c.220 §8]

**351.165 Report on incomplete capital construction projects.** No later than March 1 of each odd-numbered year, the State Board of Higher Education shall submit a report to the Legislative Assembly concerning the status of all previously approved Department of Higher Education capital construction projects that have not been completed or have been completed within the preceding 24-month period. The report shall include the project title, funding sources, the amount of the original appropriation or expenditure limitation, the amount of unexpected funds, the construction status and the anticipated completion date. [1991 c.647 §3]

Note: 351.165 was not added to and made a part of 351.010 to 351.260 by legislative action and was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**351.170 Charges for use of buildings; student building fee; disposition of receipts.** (1) The board of higher education shall establish such rates, charges and fees for use of buildings, structures or projects referred to in ORS 351.160 (1), including revenue-producing buildings and structures already constructed, as, in the judgment of the board, will provide the required revenues to make the particular new building, project or structure self-liquidating and self-supporting, and as will provide the funds with which to amortize the principal of and pay the interest on the bonds issued to finance such buildings, structures or projects.

(2) The board shall charge and collect from each regular student a building fee at a rate not to exceed \$18.50 for each regular term, for not less than three terms in each regular academic year, and not to exceed \$27.75 if instruction is on a semester basis, or an equivalent rate of charge where instruction is on a different basis. The board is authorized to maintain adequate sinking funds for bonds outstanding. The fee shall be in addition to tuition and other fees charged to students and shall be deposited with the State Treasurer and credited to the appropriate subfund of the Higher Education Bond Sinking Fund. [Amended by 1963 c.638 §3; 1963 c.584 §3; 1975 c.331 §13; 1989 c.794 §1]

**351.180 Building insurance.** The board of higher education may cause the buildings, structures or projects referred to in ORS 351.160 and 351.170 and the equipment and

furnishings therein and the appurtenances thereto to be insured against fire and other hazards in such sums as will protect the holders of the outstanding bonds issued to finance the cost thereof. Such insurance shall be in lieu of that afforded by the Insurance Fund, without right of insurers, in the event of loss, to subrogation to or contribution from said fund. [Amended by 1963 c.584 §4; 1985 c.731 §27]

**351.190 Acquisition of land for building purposes.** The board of higher education may obtain, by donation, purchase, agreement or condemnation, the title to any land authorized to be acquired by ORS 351.345, 351.350 and 351.450. Condemnation proceedings instituted by the board shall be conducted in accordance with ORS chapter 35. [Amended by 1957 c.720 §1; 1963 c.548 §5; 1971 c.741 §25]

**351.195** [1957 c.585 §1; 1969 c.349 §3; repealed by 1975 c.771 §33]

**351.200 Board power over higher education curricula and departments.** (1) The State Board of Higher Education shall visit all state institutions of higher education under its jurisdiction for the purpose of inquiring as to the work offered and conducted at such institutions, whenever and as often as it may deem necessary. The board shall specifically determine from time to time as occasion may require what courses or departments, if any, shall not, in its judgment, be duplicated in the several higher educational institutions. The board may direct the elimination of duplicate work from any institution, and determine and define the courses of study and departments to be offered and conducted by each institution.

(2) A record of such determination shall be kept by the board in a book provided by the Secretary of State for that purpose. The board shall notify the Governor of such determination and each institution affected shall conform thereto.

(3) If any changes are made in the curricula of any institution, the change shall become effective at the beginning of the school year following the determination.

(4) Any person may appear before the board of higher education at any meeting for the purpose of laying before the board any data or arguments for the maintaining or elimination of any duplicated course or department. [Amended by 1989 c.492 §2]

**351.203 Cooperation with Oregon Office of Educational Policy and Planning; compliance with certain office decisions.**

(1) The State Board of Higher Education shall cooperate with the Oregon Office of Educational Policy and Planning in the development of a state comprehensive educa-

tion plan including post-secondary education and in review of the board's programs and budget as provided in ORS 348.705 to 348.825.

(2) The board shall comply with the decisions of the office regarding proposed new post-secondary programs and proposed new post-secondary locations determined by the office to have a significantly adverse impact on one or more segments of education other than public institutions under the jurisdiction of the board. [1975 c.553 §12]

**351.205 Interchange of faculty members with schools outside Oregon.** The State Board of Higher Education may allow interchange of members of the faculties of institutions of higher learning with faculty members of comparable institutions of other states or countries for a period of one year. Such exchange service shall, for all purposes, be deemed continued service with the Oregon institution covered, with salary paid to the absent faculty member accordingly. Salary for the visiting faculty member shall not be paid by the Oregon institution covered. [1957 c.239 §1]

**351.210 Disposition of unnecessary equipment.** The board of higher education may sell or otherwise dispose of any worn out, obsolete or otherwise unsuitable equipment or material, the disposal of which would in the board's judgment be to the financial benefit of the institutions under the board's control. Before such disposal or sale, the board shall submit to the Department of General Services a proposal for such sale or disposal and shall secure from the department its formal approval thereof. The proceeds from any sales or disposals made pursuant to authority granted in this section shall be deposited in the State Treasury to the credit of the board of higher education and may be expended by it for any purpose authorized by law in the same manner as it is authorized to make other expenditures.

**351.220 Acquisition of intellectual property.** The State Board of Higher Education may acquire by gift or by purchase interests in intellectual property of any kind, whether patentable or copyrightable or not, including patents, copyrights, inventions, discoveries, processes and ideas. The board may also agree to aid in the development of property acquired pursuant to ORS 351.220 to 351.250 and to pay an assignor of any interest in intellectual property a share of any moneys received on account of the board's ownership or management of the property. [1953 c.332 §1]

**351.230 Management, development and disposition of intellectual property.** The State Board of Higher Education may manage, develop or dispose of by assignment, sale, lease, license or other action deemed

advisable by the board, property acquired under ORS 351.220, and may contract with any person or agency, board, commission or department of this or any other state or with the Federal Government regarding the management, development or disposition thereof. The board may make gratuitous assignments of such property to any trust or fund, the sole beneficiary of which is the State Board of Higher Education or any of the institutions or activities under its control, subject to the share, if any, agreed to be paid to the assignor. The board may reassign such property to the inventor, author or discoverer. [1953 c.332 §2]

**351.240 Terms and conditions of transactions in intellectual property; dissemination of information.** The State Board of Higher Education may determine the terms and conditions of any transaction authorized by ORS 351.220 to 351.250 and need not require competitive bids in connection therewith. No formal publicity or advertising is required regarding property for the development of which the board wishes to contract, but the board shall make reasonable efforts to disseminate such information in appropriate research and industrial circles. [1953 c.332 §4]

**351.250 Disposition of revenue; Higher Education Invention Fund.** Moneys received by the board as a result of ownership or management of property acquired under ORS 351.220 to 351.250 or of transactions regarding such property shall be credited to a special fund in the State Treasury, separate and distinct from the General Fund, to be designated "Higher Education Invention Fund" and shall only be applied by the State Board of Higher Education to payment of the agreed share, if any, to assignors, and for the advancement of research or for the acquisition and development of intellectual property, or both. Interest earned by the fund shall be credited to the fund. [1953 c.332 §5; 1989 c.966 §35]

**351.260 Planning assistance.** The State Board of Higher Education may establish and maintain planning facilities and undertake planning work for the provision of, or related to, local planning services and may:

(1) Upon the request of the governing body of any municipality, county, Indian reservation or of a regional or joint planning agency in the state, provide planning assistance to such municipality, county, Indian reservation or planning agency (including surveys, land use studies, urban renewal plans, technical services and other planning work) and make or assist in making a study or report upon any planning problem of such municipality, county, Indian reservation or planning agency.

(2) Agree with such governing body or planning agency as to the amount to be paid to the board for such service.

(3) Apply for and accept grants from the Federal Government and other sources in connection with any such planning work.

(4) Contract with respect thereto. [1955 c.536 §1; 1965 c.456 §1]

**351.265** [1965 c.496 §1; 1975 c.553 §1; renumbered 348.705]

**351.267 Notice of reasonable assurance of continued employment; effect of failure to give notice.** (1) The State Board of Higher Education shall give an individual, written notice of reasonable assurance of continued employment to all employees who are to perform services in the same or a similar capacity during a subsequent academic year or term or in the period immediately following a recess period. Such notice shall be given by June 15 of each year for employees employed as of that date and as of the date of hire for employees employed subsequent to June 15.

(2) Academic staff members on annual or indefinite tenure, classified staff members on regular status and management service employees are considered to have been given notice for the purposes of this section.

(3) No liability shall accrue from failure to give the notice required by subsection (1) of this section or from the timing or contents thereof on the part of the State Board of Higher Education. However, the State Board of Higher Education shall enforce the provisions of subsection (1) of this section.

(4) For the purposes of this section, "employee" means classified and academic staff excluding employees listed in ORS 240.205 and 240.212. [1985 c.585 §5]

**351.270** [1963 c.548 §6; 1965 c.496 §2; 1969 c.314 §26; 1971 c.643 §1; 1973 c.792 §11; 1973 c.816 §3; 1974 s.s. c.36 §10; 1975 c.553 §2; renumbered 348.715]

**351.273** [1973 c.442 §2; repealed by 1975 c.553 §15]

**351.275** [1965 c.496 §3; renumbered 348.735]

**351.280** [1965 c.496 §4; 1971 c.643 §2; renumbered 348.745]

**351.285** [1965 c.496 §5; renumbered 348.755]

**351.290** [1965 c.496 §6; 1967 c.454 §105; 1971 c.643 §3; renumbered 348.765]

**351.295** [1965 c.496 §7; repealed by 1975 c.605 §33]

**351.297** [1969 c.566 §1; 1971 c.643 §4; renumbered 348.785]

**351.298** [1969 c.566 §2; 1971 c.643 §5; renumbered 348.795]

**351.299** [1969 c.566 §3; repealed by 1971 c.643 §8]

**351.301** [1969 c.566 §4; 1971 c.643 §6; renumbered 348.815]

**351.302** [1969 c.566 §5; 1971 c.643 §7; renumbered 348.825]

**351.303** [1969 c.566 §6; repealed by 1971 c.643 §8]

## FINANCES

**351.300 Legislative finding on need for stabilized funding.** The Legislative Assembly finds that in order to avoid unnecessary disruption at public institutions of higher education and in order to provide assurance that the institutions share in the benefits of any major reform in the Oregon tax system, it is necessary to stabilize funding for such institutions over a longer period than is customary with biennial budgeting. [1991 c.963 §1]

Note: Section 2, chapter 963, Oregon Laws 1991, provides:

**Sec. 2. 1991-1994 recommended expenditures.** The State Board of Higher Education may recommend expenditures for 1993-1994 in the same amount as those amounts expended in 1992-1993 for purposes of faculty salaries and related charges. [1991 c.963 §2]

**351.305 Definition for ORS 351.310 to 351.540.** As used in ORS 351.310 to 351.540, "board" means the State Board of Higher Education.

**351.310 Board's general financial power; appropriation of moneys received by board.** (1) The board of higher education shall control the use, distribution and disbursement of all funds, appropriations and taxes now or hereafter in possession, levied and collected, received or appropriated for the use, benefit, support and maintenance of institutions, departments or activities of higher education, including the authorization of individuals to sign vouchers for the disbursement of funds for the various institutions, departments and activities.

(2) All moneys, except moneys appropriated from the State Treasury for expenditure within a specified period of time, heretofore or hereafter received by or on behalf of the State Board of Higher Education, or any institution, department or activity under its control, which are not otherwise appropriated by law, hereby are appropriated continuously to the State Board of Higher Education for the purposes for which such moneys were donated, granted or received, in accordance with any applicable law governing the use of such moneys. [Amended by 1955 c.84 §1]

**351.320 Prorating expenses.** The board of higher education may prorate all expenses not otherwise provided for, incurred under authority of ORS 351.040, 351.050, 351.090 to 351.110, 351.130 and 351.310 to the institutions under its control, and pay the same from the funds available for the general expenses of those institutions.

**351.330** [Repealed by 1957 c.370 §1]

**351.340 Use of moneys.** All sums of money provided by law for the support and maintenance of institutions and activities of

higher learning may be used for the payment of salaries of instructors and employees, current expenses, construction of additional buildings, purchase of lands, purchase of equipment, purchase of library books and periodicals, purchase of laboratory supplies and apparatus, making necessary repairs and, in general, for the payment of all such expenses connected with the management of such institutions and activities of higher learning, as the board may from time to time determine. However, such money in the instruction budget of the board shall not be used to support hobby or recreation courses. [Amended by 1957 c.370 §3; 1978 c.1 §3]

**351.345 Bond issue for higher education and community college projects.** In order to provide funds for the purposes specified in Article XI-G of the Oregon Constitution, bonds may be issued in accordance with the provisions of ORS 286.031 to 286.061. [1963 c.584 §1; 1981 c.660 §24]

**351.350 Bond issue for self-liquidating higher education purposes.** In order to provide funds for the purposes specified in Article XI-F(1), Oregon Constitution, bonds may be issued in accordance with the provisions of ORS 286.031 to 286.061. [Amended by 1955 c.88 §1; 1957 c.703 §1; 1959 c.127 §1; 1961 c.35 §1; 1963 c.10 §1; 1963 c.615 §1; 1967 c.404 §9; 1969 c.664 §8; 1971 c.709 §7; 1975 c.331 §11; 1981 c.539 §7; 1981 c.660 §25]

**351.353 Construction of parking facilities; bonds.** (1) The State Board of Higher Education may undertake the construction of an off-street motor vehicle parking facility in Portland, Oregon, for higher education pursuant to Article XI-F(1), Oregon Constitution, ORS 351.160 to 351.190, 351.350 to 351.460 and 351.490. The parking facility shall be for the use of the students and staff members of the board. The board shall establish the rates, charges and fees for use of the parking facility in accordance with the provisions of ORS 351.170.

(2) Bonds may be sold to finance the facility described in this section, in an amount authorized and under the conditions prescribed by ORS 351.350. [1963 c.573 §2; 1967 c.67 §18; 1981 c.660 §26; 1991 c.220 §9]

**351.355** [1963 c.573 §3; repealed by 1967 c.67 §27]

**351.360** [Amended by 1957 c.703 §2; 1959 c.127 §2; 1967 c.369 §1; repealed by 1981 c.660 §18]

**351.370** [Repealed by 1981 c.660 §18]

**351.380** [Amended by 1957 c.703 §3; repealed by 1981 c.660 §18]

**351.390** [Repealed by 1981 c.660 §18]

**351.400** [Repealed by 1981 c.660 §18]

**351.410** [Amended by 1975 c.462 §4; repealed by 1981 c.660 §18]

**351.420** [Repealed by 1981 c.660 §18]

**351.430** [Amended by 1957 c.703 §4; 1969 c.213 §1; repealed by 1981 c.660 §18]

**351.440 Sale to State of Oregon or United States Government.** The bonds may be sold to the State of Oregon or to the United States Government without advertisement thereof for public sale. [Amended by 1957 c.703 §5; 1981 c.94 §31; 1981 c.660 §27]

**351.450 Higher Education Bond Building Fund.** The moneys realized from sales of bonds issued to construct, improve, repair, equip and furnish buildings and other structures for higher education, and to purchase and improve sites therefor shall be credited to a special fund in the State Treasury separate and distinct from the General Fund, to be designated Higher Education Bond Building Fund. In the Higher Education Bond Building Fund there shall be a separate subfund for the credit of moneys realized from sales of bonds issued pursuant to Article XI-F(1) of the Oregon Constitution and ORS 351.350; and there shall be a separate subfund for the credit of moneys realized from sales of bonds issued pursuant to Article XI-G of the Oregon Constitution, and ORS 351.345. The moneys received from the issuance of temporary bonds under ORS 351.470 for the purpose of interim financing pending the sale of the bonds shall also be credited to the appropriate subfund of the Higher Education Bond Building Fund. The moneys in the fund hereby are appropriated to defray the costs of the projects to be financed through sale of the bonds and for the purpose of retiring temporary bonds issued under ORS 351.470, and shall not be used for any other purpose, except that such moneys may, with the approval of the State Treasurer, be invested until needed in obligations of the State of Oregon or of the United States Government, or both, having maturity dates of not to exceed two years. If a surplus remains after application to such purpose, the surplus, and earnings from temporary investments, shall be credited to the Higher Education Bond Sinking Fund by the appropriate subfund. [Amended by 1953 c.214 §2; 1957 c.703 §6; 1963 c.584 §6; 1981 c.660 §28]

**351.455 Use of moneys in subfund.** Notwithstanding any other provisions of law, the Department of Higher Education may expend moneys from the Higher Education Bond Building Fund subfund established by ORS 351.450 including moneys realized from the sale of bonds issued pursuant to Article XI-F(1) of the Oregon Constitution and ORS 351.350, for the planning, constructing, altering, repairing, furnishing and equipping of buildings and facilities of the kind and character prescribed by Article XI-F(1) of the Oregon Constitution and for the acquisition of land. [1991 c.647 §4]

**Note:** 351.455 was not added to and made a part of any series in ORS chapter 351. See Preface to Oregon Revised Statutes for further explanation.

**351.460 Higher Education Bond Sinking Fund.** (1) The board shall maintain with the State Treasurer, a Higher Education Bond Sinking Fund, separate and distinct from the General Fund. The Higher Education Bond Sinking Fund shall comprise two separate subfunds to provide for the payment of the principal of and the interest upon the bonds issued under authority of Article XI-F(1) of the Oregon Constitution and ORS 351.350, and under authority of Article XI-G of the Oregon Constitution and ORS 351.345. The moneys in said sinking fund hereby are appropriated for such purposes. The said fund may be invested by the board in securities as defined in ORS 295.005 (7)(a), (c) and (d) and in Time Certificates of Deposit issued by a bank or trust company authorized to do business in this state in the capacity of a bank or trust company, and the earnings from such investments shall be credited to the appropriate subfunds of such fund.

(2) The Higher Education Bond Sinking Fund shall consist of all moneys received from ad valorem taxes levied pursuant to ORS 291.344, all moneys that the Legislative Assembly may provide in lieu of such taxes, all of the net revenues received from the projects or undertakings for the financing of which the bonds were issued, including gifts, grants and building fees, such unpledged revenues of buildings and projects of like character as shall be allocated by the board, all moneys received as accrued interest upon bonds sold, all earnings from investments of said fund and the proceeds of the sale of refunding bonds. Moneys credited to the Higher Education Bond Sinking Fund shall be credited to the appropriate subfunds of such fund.

(3) The board may credit the Higher Education Bond Sinking Fund with moneys received from either a sale or interfund transfer of land, buildings and facilities. Where such land, buildings or facilities are sold, or the use thereof is rededicated so that a transfer from one subfund to the other is appropriate, the moneys received shall be credited to the appropriate subfund.

(4) The board shall apply student building fees, revenues, gifts and grants for the payment of the principal of and the interest upon the bonds issued under authority of Article XI-F(1) of the Oregon Constitution and ORS 351.350 until such time as the proper subfund of said sinking fund and investments thereof, as supplemented by expected future income will, in the judgment of the board, be sufficient to meet in full the principal of and the interest upon all such outstanding bonds. Except for student building fees, income not thus required for the sinking fund shall be transferred to such

other fund and account as the board shall designate. Student building fees for buildings constructed from the proceeds of bonds issued under Article XI-F(1) of the Oregon Constitution shall be applied only to those projects authorized under Article XI-F(1) of the Oregon Constitution.

(5) The said sinking fund shall not be used for any purpose other than those for which the fund was created; but should a balance remain therein from sources other than student building fees for buildings constructed from the proceeds of bonds issued under Article XI-F(1) of the Oregon Constitution after the purposes for which the fund was created have been fulfilled or after a reserve sufficient to meet all existing and future obligations and liabilities of the fund has been set aside, the surplus remaining may be transferred to such other fund as the board may designate. [Amended by 1963 c.584 §7; 1969 c.513 §1; 1973 c.809 §1; 1981 c.660 §29; 1989 c.311 §2; 1991 c.220 §10]

**351.470 Temporary bonds.** Pending receipt of the proceeds from the expected sale of bonds under the provisions of ORS 351.345 to 351.460, to the State of Oregon or to the United States Government or any agency thereof, the State Board of Higher Education may, with the approval of the State Treasurer, procure interim financing from the State of Oregon, the United States Government or any agency thereof, or from any private lending agency, by issuing to such private or public lending agency temporary bonds, without advertisement of such bonds for sale, in order to finance temporarily building projects authorized by the board pursuant to Article XI-F(1) or Article XI-G of the Constitution of the State of Oregon and ORS 351.160 (1) or (2), if the bond issue to be temporarily financed by the issuance of temporary bonds has been authorized by the State Board of Higher Education and a purchase plan has been formulated with and is being considered by the State of Oregon or the United States Government or any agency thereof. The proceeds from the sale of the bonds shall be deposited in the Higher Education Bond Building Fund and credited to the appropriate subfund of such fund, and shall be used to retire the temporary bonds issued under this section. The principal amount of temporary bonds issued under this section shall not exceed the principal amount of the bond issue for which a purchase plan has been formulated. The temporary bonds may be extended, renewed or refunded but maturity dates shall in no event be later than two years from the date of issue of the original temporary bonds for the related building project. [1957 c.703 §8; 1963 c.584 §8]

**351.480** [Amended by 1963 c.584 §9; repealed by 1991 c.220 §15]

**351.490 Federal aid; donations; acceptance and use.** The board may, in its discretion, accept financial assistance and grants, either in the form of money or labor, from the United States or any of its agencies, subject to the terms and conditions thereof, regardless of any laws of this state in conflict with the regulations of the Federal Government with respect thereto, and may also accept from others any donation or grant of land or gift of money or other valuable gift or thing, for any of the purposes contemplated by Article XI-F(1) and Article XI-G of the Oregon Constitution, ORS 351.160 to 351.190, 351.345 to 351.460 and 351.470 to 351.500. Unless enjoined by the terms or conditions of any such gift or grant, the board may convert the same, or any of them, into money, through sale or disposal thereof. [Amended by 1963 c.584 §10]

**351.500 Repealed statutes continued effective until bonds redeemed.** Outstanding bonds issued under article 3, chapter 36, title 111, O.C.L.A., and chapter 41, title 111, O.C.L.A., shall continue to be valid obligations until they are redeemed in full, and authority granted in connection with said bonds shall continue in effect until they have been so redeemed.

351.510 [Amended by 1957 c.703 §7; 1963 c.584 §11; repealed by 1967 c.454 §119]

**351.520 Borrowing money for purchase of real property.** In carrying out the power and authority granted by ORS 351.140, the board of higher education may borrow money and notes, bonds or other evidences of indebtedness may be issued, secured by the pledge of the real property to be acquired and revenues, as provided in ORS 351.140. Such evidences of indebtedness shall be issued in accordance with the provisions of ORS 286.031 to 286.061. [Amended by 1981 c.660 §30]

**351.530 Obligations under ORS 351.140 or 351.520 not indebtedness of state or board.** No obligation of any kind incurred under ORS 351.140 or 351.520 shall be, or be considered, an indebtedness of the State of Oregon, or to create a general indebtedness of the board of higher education. Any contract of purchase, note or bond or other obligation issued by said board shall limit its payment to the property and income or revenues pledged to secure its payment.

**351.540 Special checking account of board of higher education.** (1) Unless otherwise provided by law, or by federal order or regulation with respect to federal funds, the State Board of Higher Education, with the approval of the State Treasurer, may deposit with the State Treasurer any moneys coming into its hands. Moneys so deposited

shall be credited by the State Treasurer to a special checking account.

(2) The special checking account may be used for the purpose of clearing items subject to subsequent debit or credit to state funds.

(3) Disbursements may be made by check or order of the board upon the State Treasurer, signed by such officer or administrative head as the board, by motion or resolution, nominates for that purpose. Disbursements shall be made only in payment of claims authorized by law for the ordinary expenditures of the State Board of Higher Education incurred in the operation of the state institutions of higher learning.

(4) Funds in the account established under subsection (1) of this section may be held as petty cash or carried with the State Treasurer in segregated subaccounts, to be disbursed in accordance with subsection (3) of this section. With the approval of the State Treasurer, petty cash funds may be deposited in banks for safekeeping purposes and disbursed therefrom in payment of claims authorized by law by employees of the board authorized by the disbursing officer. The board's duly designated disbursing officer from time to time shall reimburse the petty cash funds or subaccounts upon the presentation of satisfactory evidence of disbursements therefrom pursuant to law. [Amended by 1967 c.454 §31; 1979 c.479 §1]

**351.545 Higher Education Isolation Facility Bond Sinking Fund.** (1) The board shall maintain with the State Treasurer, a Higher Education Isolation Facility Bond Sinking Fund, separate and distinct from the General Fund. The Higher Education Isolation Facility Bond Sinking Fund shall provide for the payment of principal and interest of bonds issued under the authority of Article XI-F(1) of the Oregon Constitution and ORS 351.350 in an amount equal to the amount authorized for expenditure by paragraph (b) of subsection (2) of section 3, chapter 709, Oregon Laws 1971, and expended as provided therein. The sinking fund may be invested by the board in securities as defined in ORS 295.005 (7)(a), (c) and (d) and in Time Certificates of Deposit issued by a bank or trust company authorized to do business in this state in the capacity of a bank or trust company, and the earnings from such investments shall be credited to the sinking fund.

(2) The Higher Education Isolation Facility Bond Sinking Fund shall consist of moneys received as net revenues from the isolation facilities for which the expenditure of funds is authorized by paragraph (b) of subsection (2) of section 3, chapter 709, Oregon Laws 1971, including gifts, grants and building fees, moneys received as ac-

crued interest on bonds sold, earnings from investments on the sinking fund, the proceeds of the sale of refunding bonds and any accrued interest on such refunding bonds, moneys received pursuant to ORS 462.280, moneys appropriated to the sinking fund by the Legislative Assembly and moneys received for the purposes of the sinking fund from all other sources. All moneys in the sinking fund are continuously appropriated to the board for the purposes provided in subsection (1) of this section.

(3) The sinking fund shall not be used for any purpose other than that for which the fund was created; but should a balance remain therein after the purpose for which the fund was created has been fulfilled, or the sinking fund and investments thereof, will, in the judgment of the board, be sufficient to meet in full the principal of and the interest upon all Higher Education Isolation Facility bonds then such excess funds may be transferred by the board to funds to be used for research related to veterinary medicine. [1971 c.688 §3; 1973 c.809 §2; 1975 c.550 §13; 1977 c.281 §5; 1977 c.855 §19; 1981 c.660 §31; 1987 c.452 §1]

**351.550** [Repealed by 1979 c.479 §2]

**351.555 Investment of undistributed bond funds.** Whenever bonds are issued pursuant to the provisions of Article XI-G of the Oregon Constitution, all undistributed bond funds and revenue received as payment, if invested, shall be invested to produce a yield less than the yield produced by arbitrage bonds as defined in subsection (d) of section 103 of the Internal Revenue Code of 1954. [1971 c.709 §13]

**351.560** [Amended by 1967 c.255 §1; 1967 c.454 §32; 1971 c.80 §2; repealed by 1979 c.479 §2]

**351.570** [1961 c.577 §2; 1965 c.585 §1; renumbered 348.010]

**351.580 Use of federal funds for architectural and engineering planning.** Notwithstanding any appropriations or moneys made available by law, and notwithstanding any other provision made for appropriations to the Department of Higher Education under chapter 404, Oregon Laws 1967, the State Board of Higher Education is authorized to undertake architectural and engineering planning with moneys provided from the Federal Government or from other sources. Such moneys, including reimbursement for planning, are continuously appropriated for planning purposes. [1967 c.404 §5]

**351.590 Higher Education Student Activities Fund.** (1) The State Board of Higher Education shall maintain with the State Treasurer a fund, separate and distinct from the General Fund, known as the Higher Education Student Activities Fund in which shall be deposited all revenue from incidental fees, optional fees, health services fees and

all operating revenue from intercollegiate athletics, student unions and educational activities.

(2) Disbursements from the fund, including any interest credited thereto, may be made for necessary expenses for supplies, services and equipment associated with student activities including but not limited to recruiting, training and grant-in-aid to intercollegiate athletes.

(3) The fund may be invested by the State Treasurer in securities which constitute legal investments as defined in ORS 295.005 (7). The earnings from such investments shall be credited to the fund. The State Board of Higher Education shall distribute annually the total interest earnings proportionately to each institution based on each institution's average cash balance in the fund. [1975 c.558 §7; 1987 c.256 §1; 1989 c.966 §36]

**351.605** [Formerly 351.120; amended by 1961 c.558 §1; 1963 c.328 §1; renumbered 348.210]

**351.610** [1963 c.539 §2; renumbered 348.220]

**351.615 Higher Education Auxiliary Enterprise Building Repair and Equipment Replacement Fund.** Moneys set aside by higher education auxiliary activities for repair and alteration of buildings and replacement of equipment shall be credited to a special fund in the State Treasury, separate and distinct from the General Fund, to be designated Higher Education Auxiliary Enterprise Building Repair and Equipment Replacement Fund. The fund may be invested by the State Treasurer in securities which constitute legal investments as defined in ORS 295.005 (7). The earnings from such investments will be credited to the fund for distribution to the several auxiliary activities in accord with rules to be adopted by the board. The moneys in the Higher Education Auxiliary Enterprise Building Repair and Equipment Replacement Fund are continuously appropriated for the repair and alteration of auxiliary enterprise buildings and replacement of equipment as designated by the board, after hearing any recommendations by recognized student governments. [1979 c.106 §2]

**351.620** [1961 c.558 §4; renumbered 348.230]

**351.625** [1959 c.564 §12; 1961 c.558 §2; renumbered 348.240]

**351.627 Higher Education Capital Construction Fund.** (1) There is created a Higher Education Capital Construction Fund, separate and distinct from the General Fund, to consist of all moneys credited thereto, including moneys from the Executive Department Economic Development Fund. Interest earned by the fund shall be credited to the fund. The fund is continuously appropriated to the State Board of

Higher Education for purposes of capital construction.

(2) No building, facility or project to be funded from the Higher Education Capital Construction Fund shall be commenced and no expenditure therefor shall be made or incurred except for land purchases, architectural or engineering planning until a plan therefor has been submitted by the State Board of Higher Education to and approved by the Emergency Board. [1985 c.828 §5; 1989 c.966 §§37, 73]

**351.630** [1959 c.564 §13; 1961 c.558 §5; renumbered 348.250]

**351.633 Form of contract to be paid from Higher Education Capital Construction Fund.** Any contract entered into by the State Board of Higher Education to be paid from the Higher Education Capital Construction Fund for which there are insufficient funds therein at the time the contract is entered into must contain a provision authorizing cancellation thereof if the funds do not become available. [1985 c.828 §6]

**351.635** [1959 c.564 §1; renumbered 348.510]

**351.638 Faculty Recruitment Fund.** (1) A Faculty Recruitment Fund is created in the General Fund of the State Treasury. All moneys in the fund are appropriated continuously and shall be expended by the State Board of Higher Education for the purpose of attracting new, outstanding faculty members to the institutions in the State System of Higher Education. This purpose includes payment of costs incurred in relocating new faculty, retraining necessary teaching assistants for new faculty, acquisition of equipment such as laboratory equipment and facilities to support research by new faculty, payment of other costs incurred in recruiting new faculty and payment of costs associated with committing salary supplements to newly recruited faculty over a period of more than one year.

(2) The state board shall seek funds from private sources for deposit to the credit of the fund. Funds from other sources shall not be transferred or credited to the fund without prior authorization of the appropriate legislative review agency as described in ORS 291.375 (1). [1987 c.630 §1]

**351.640** [1959 c.564 §7; renumbered 348.520]

**351.642 Status of members of Armed Forces; spouses and children.** (1) Members of the Armed Forces of the United States and their spouses and dependent children who are described in ORS 174.103 shall be considered residents of this state for the purpose of determining fees and tuition to be paid by such individuals while attending any educational institution in this state under

the control of the State Board of Higher Education.

(2) The State Board of Higher Education may contract with the Armed Forces of the United States to furnish educational service in Oregon institutions to members of the Armed Forces of the United States described in ORS 174.103.

(3) The board shall determine the number of such students that should be accepted, and shall make final decisions on admission of individual applicants.

(4) Students attending Oregon institutions under contracts with the Armed Forces of the United States under this section shall pay fees and tuition customarily charged Oregon students.

(5) Payments made by the Armed Forces of the United States under such contracts shall be deposited in the State Treasury and credited to the accounts of the State Board of Higher Education in the same manner that fees and tuition payments for resident students are deposited and credited. [1987 c.162 §7; 1989 c.264 §3]

**351.645** [1959 c.564 §8; 1961 c.416 §2; renumbered 348.530]

**351.650** [1959 c.564 §§4, 5; renumbered 348.540]

**351.655** [1959 c.564 §3; renumbered 348.550]

**351.660** [1959 c.564 §6; renumbered 348.560]

**351.665** [1959 c.564 §11; renumbered 348.570]

**351.670** [1959 c.564 §9; 1961 c.416 §3; renumbered 348.580]

**351.672** [1961 c.416 §1; renumbered 348.590]

**351.673** [1961 c.577 §1; repealed by 1965 c.585 §2]

**351.675** [1959 c.564 §10; renumbered 348.600]

**351.710** [Amended by 1959 c.459 §1; 1975 c.553 §4; renumbered 348.835]

**351.720** [Amended by 1975 c.553 §5; renumbered 348.845]

**351.730** [Amended by 1975 c.553 §3; renumbered 348.855]

**351.740** [Renumbered 348.865]

**351.750** [Renumbered 348.875]

**351.760** [Renumbered 348.885]

**351.765** [1957 c.409 §§1, 2; 1959 c.566 §6; 1959 c.641 §37; renumbered 352.370]

## WESTERN REGIONAL HIGHER EDUCATION COMPACT

**351.770 Western Regional Higher Education Compact ratified.** The Western Regional Higher Education Compact is ratified and approved and the adherence of this state to its provisions, upon ratification and approval by any five or more of the states or territories therein named, is declared.

**351.780 Compact provisions.** The terms and provisions of the compact referred to in ORS 351.770 are as follows:

## ARTICLE I

Whereas the future of this nation and of the western states is dependent upon the quality of the education of its youth; and

Whereas many of the western states individually do not have sufficient numbers of potential students to warrant the establishment and maintenance within their borders of adequate facilities in all of the essential fields of technical, professional and graduate training, nor do all of the states have the financial ability to furnish within their borders institutions capable of providing acceptable standards of training in all of the fields mentioned above; and

Whereas it is believed that the western states, or groups of such states within the region, cooperatively can provide acceptable and efficient educational facilities to meet the needs of the region and of the students thereof:

Now, therefore, the states of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming and the territories of Alaska and Hawaii do hereby covenant and agree as follows:

## ARTICLE II

Each of the compacting states and territories pledges to each of the other compacting states and territories faithful cooperation in carrying out all the purposes of this compact.

## ARTICLE III

The compacting states and territories hereby create the Western Interstate Commission for Higher Education, hereinafter called the commission. Said commission shall be a body corporate of each compacting state and territory and an agency thereof. The commission shall have all the powers and duties set forth herein, including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states and territories.

## ARTICLE IV

The commission shall consist of three resident members from each compacting state or territory. At all times one commissioner from each compacting state or territory shall be an educator engaged in the field of higher education in the state or territory from which he is appointed.

The commissioners from each state and territory shall be appointed by the Governor thereof as provided by law in such state or territory. Any commissioner may be removed or suspended from office as provided by the

law of the state or territory from which he shall have been appointed.

The terms of each commissioner shall be four years; provided, however, that the first three commissioners shall be appointed as follows: One for two years, one for three years, and one for four years. Each commissioner shall hold office until his successor shall be appointed and qualified. If any office becomes vacant for any reason, the Governor shall appoint a commissioner to fill the office for the remainder of the unexpired term.

## ARTICLE V

Any business transacted at any meeting of the commission must be by affirmative vote of a majority of the whole number of compacting states and territories.

One or more commissioners from a majority of the compacting states and territories shall constitute a quorum for the transaction of business.

Each compacting state and territory represented at any meeting of the commission is entitled to one vote.

## ARTICLE VI

The commission shall elect from its number a chairman and a vice chairman, and may appoint, and at its pleasure dismiss or remove, such officers, agents and employees as may be required to carry out the purpose of this compact; and shall fix and determine their duties, qualifications and compensation, having due regard for the importance of the responsibilities involved.

The commissioners shall serve without compensation, but shall be reimbursed for their actual and necessary expenses from the funds of the commission.

## ARTICLE VII

The commission shall adopt a seal and bylaws and shall adopt and promulgate rules and regulations for its management and control.

The commission may elect such committees as it deems necessary for the carrying out of its functions.

The commission shall establish and maintain an office within one of the compacting states for the transaction of its business and may meet at any time, but in any event must meet at least once a year. The chairman may call upon such additional meetings and upon the request of a majority of the commissioners of three or more compacting states or territories shall call additional meetings.

The commission shall submit a budget to the Governor of each compacting state and territory at such time and for such period as may be required.

The commission shall, after negotiations with interested institutions, determine the cost of providing the facilities for graduate and professional education for use in its contractual agreements throughout the region.

On or before the fifteenth day of January of each year the commission shall submit to the governors and legislatures of the compacting states and territories a report of its activities for the preceding calendar year.

The commission shall keep accurate books of account, showing in full its receipts and disbursements, and said books of account shall be open at any reasonable time for inspection by the Governor of any compacting state or territory or his designated representative. The commission shall not be subject to the audit and accounting procedure of any of the compacting states or territories. The commission shall provide for an independent annual audit.

#### ARTICLE VIII

It shall be the duty of the commission to enter into such contractual agreements with any institutions in the region offering graduate or professional education and with any of the compacting states or territories as may be required in the judgment of the commission to provide adequate services and facilities of graduate and professional education for the citizens of the respective compacting states or territories. The commission shall first endeavor to provide adequate services and facilities in the fields of dentistry, medicine, public health and veterinary medicine, and may undertake similar activities in other professional and graduate fields.

For this purpose the commission may enter into contractual agreements:

(a) With the governing authority of any educational institution in the region, or with any compacting state or territory, to provide such graduate or professional educational services upon terms and conditions to be agreed upon between contracting parties, and

(b) With the governing authority of any educational institution in the region or with any compacting state or territory to assist in the placement of graduate or professional students in educational institutions in the region providing the desired services and facilities, upon such terms and conditions as the commission may prescribe.

It shall be the duty of the commission to undertake studies of needs for professional and graduate educational facilities in the region, the resources for meeting such needs, and the long-range effects of the compact on higher education; and from time to time prepare comprehensive reports on such research

for presentation to the Western Governors' Conference and to the legislatures of the compacting states and territories. In conducting such studies, the commission may confer with any national or regional planning body which may be established. The commission shall draft and recommend to the Governors of the various compacting states and territories uniform legislation dealing with problems of higher education in the region.

For the purposes of this compact the word "region" shall be construed to mean the geographical limits of the several compacting states and territories.

#### ARTICLE IX

The operating costs of the commission shall be apportioned equally among the compacting states and territories.

#### ARTICLE X

This compact shall become operative and binding immediately as to those states and territories adopting it whenever five or more of the states or territories of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming, Alaska and Hawaii have duly adopted it prior to July 1, 1953. This compact shall become effective as to any additional states or territories adopting thereafter at the time of such adoption.

#### ARTICLE XI

This compact may be terminated at any time by consent of a majority of the compacting states or territories. Consent shall be manifested by passage and signature in the usual manner of legislation expressing such consent by the legislature and Governor of such terminating state. Any state or territory may at any time withdraw from this compact by means of appropriate legislation to that end. Such withdrawal shall not become effective until two years after written notice thereof by the Governor of the withdrawing state or territory, accompanied by a certified copy of the requisite legislative action, is received by the commission. Such withdrawal shall not relieve the withdrawing state or territory from its obligations hereunder accruing prior to the effective date of withdrawal. The withdrawing state or territory may rescind its action of withdrawal at any time within the two-year period. Thereafter, the withdrawing state or territory may be reinstated by application to and the approval by a majority vote of the commission.

#### ARTICLE XII

If any compacting state or territory shall at any time default in the performance of any of its obligations assumed or imposed in accordance with the provisions of this compact,

all rights, privileges and benefits conferred by this compact or agreements hereunder, shall be suspended from the effective date of such default as fixed by the commission.

Unless such default shall be remedied within a period of two years following the effective date of such default, this compact may be terminated with respect to such defaulting state or territory by affirmative vote of three-fourths of the other member states or territories.

Any such defaulting state may be reinstated by: (a) performing all acts and obligations upon which it has heretofore defaulted, and (b) application to and the approval by a majority vote of the commission.

#### **351.790 Effective time of compact.**

Upon ratification and approval of the Western Regional Higher Education Compact by any five or more of the specified states or territories, the Governor of this state shall execute the compact on behalf of this state and perform any other acts which may be deemed requisite to its formal ratification and promulgation.

**351.800 Commission members; appointment and removal.** (1) The Governor shall appoint the Oregon members of the Western Interstate Commission for Higher Education.

(2) The qualifications and terms of office of the members of the commission for this state shall conform with the provisions of Article IV of the compact.

(3) The Governor may remove a member of the commission for cause after notice and public hearing.

**351.810 Authority to take action to achieve ends of compact.** The State Board of Higher Education, and the Oregon members of the Western Interstate Commission for Higher Education are authorized to take any action necessary to achieving the ends of the Western Regional Higher Education Compact. [1953 c.205 §1]

**351.820 Contracts with commission to furnish out-of-state educational service to Oregon students.** (1) Prior to June 1 of each even-numbered year the Oregon members of the Western Interstate Commission for Higher Education shall determine the quotas of Oregon students for whom various kinds of educational service should be purchased in out-of-state institutions during the next biennium and shall recommend to the State Board of Higher Education the amount to be included in its biennial budget to cover the cost of such educational service.

(2) The State Board of Higher Education shall negotiate contracts with the Western Interstate Commission for Higher Education for educational service of the kind and amount indicated by the quotas determined under subsection (1) of this section. The board shall make payments required by such contracts out of the money appropriated to it for that purpose.

(3) The State Board of Higher Education may also contract with higher education institutions, or others, which are not members of the Western Interstate Commission for Higher Education, to furnish educational services to students who are residents of the State of Oregon in those areas of higher education where the educational institutions of the State of Oregon are unable to provide the desired professional educational opportunities. [1953 c.205 §§2, 3; 1969 c.277 §1]

**351.830 Selection of Oregon residents to receive out-of-state educational service.** (1) Any Oregon resident desiring to take advantage of the Western Regional Higher Education Compact may make application to the State Board of Higher Education for out-of-state educational service. From such applicants the board shall select students to fill the quotas determined under ORS 351.820.

(2) The board and the Oregon members of the Western Interstate Commission for Higher Education shall jointly establish criteria to be observed by the board in making such selections.

(3) The board shall certify the names of the students selected to the Western Interstate Commission for Higher Education and to the out-of-state institution to which each student desires admission. [1953 c.205 §4]

**351.840 Contracts with commission to furnish educational service in Oregon institutions to out-of-state students.** (1) The State Board of Higher Education may contract with the Western Interstate Commission for Higher Education to furnish educational service in Oregon institutions to out-of-state students.

(2) The board shall determine the number of out-of-state students that should be accepted, and shall make final decisions on admission of individual applicants.

(3) Out-of-state students attending Oregon institutions under contracts with the commission shall pay fees and tuition customarily charged Oregon students.

(4) Payments made by the commission under such contracts shall be deposited in the State Treasury and credited to the accounts of the State Board of Higher Education in the same manner that fees and

tuition payments for resident students are deposited and credited. The estimated amount of such payments shall be considered by the board in making its biennial budgetary requests. [1953 c.205 §5]

### RESEARCH POLICY

**351.865 Definition for ORS 351.865 to 351.890.** As used in ORS 351.865 to 351.890, "basic research" is defined as scholarly investigation conducted to obtain new knowledge for its own sake. [1983 c.429 §2]

**351.870 Findings and policy for ORS 351.865 to 351.890.** (1) The Legislative Assembly finds and declares that basic research is fundamental to the continuation and expansion of applied research and is thus a necessary ingredient in economic growth. The Legislative Assembly further finds that basic research is itself an important activity which should be promoted.

(2) It is the policy of this state that basic research is an appropriate and necessary activity of our public universities. Further, the State of Oregon has an obligation with other states and the Federal Government to encourage and finance basic research if the state and nation are to be active participants in a future which will require ever increasing levels of knowledge and understanding.

(3) The Legislative Assembly acknowledges that a characteristic of basic research is that no defined result can be guaranteed and asserts that only through scholarly investigation can knowledge be advanced to be later developed and applied.

(4) The Legislative Assembly believes that moneys for basic research should be regularly appropriated and that such moneys should be used for support of qualified investigators and funding of research projects.

(5) The Legislative Assembly intends that in implementing the policy on basic research or any other research policy, the State Board of Higher Education, in keeping with the principle of academic freedom, shall insure open and free inquiry and publication in all institutions under its jurisdiction. [1983 c.429 §§3, 4, 5, 6; 1987 c.731 §1]

**351.875 Basic Research Fund; uses.** (1) There is hereby created within the State Treasury a fund, separate and distinct from

the General Fund, to be known as the Basic Research Fund. Moneys may be credited to the fund from any public or private source. Interest earnings of the fund from whatever source shall be credited to the fund.

(2) The fund shall be administered by the State Board of Higher Education according to policies and procedures adopted pursuant to ORS 351.880 and 351.885.

(3) Expenditures from the fund shall take the form of grants for a time certain and may extend beyond the biennium in which the expenditure is made. Grants may not be used for capital construction. [1983 c.429 §7]

**351.880 Council for Research Policy Recommendations.** For the purpose of recommending policies and procedures for the administration of the fund, the board shall establish a Council for Research Policy Recommendations. [1983 c.429 §8]

**351.885 Duties of state board.** (1) With the advice and recommendations of the council, the board shall adopt policies and procedures for the administration of the fund.

(2) The policies and procedures shall give consideration to:

(a) The promotion of basic research of the highest caliber within our public universities;

(b) The identification of areas of inquiry which should be supported so as to recognize both the intrinsic value and extrinsic economic value of basic research;

(c) The capacity of each university to decide where basic research moneys could best be spent within that university;

(d) Administrative and accounting requirements which place upon the university receiving moneys from the fund a minimum burden sufficient to guarantee an appropriate degree of public accountability; and

(e) Methods of assuring nondiscriminatory access to the fund. [1983 c.429 §9]

**351.890 Short title.** ORS 351.865 to 351.890 shall be known and cited as the "Research Policy Act of 1983." [1983 c.429 §1]

**351.990** [Part renumbered 348.990; repealed by 1979 c.308 §7]

## EDUCATION AND CULTURAL FACILITIES

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