

**Enrolled**  
**House Bill 2199**

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Department of Higher Education)

CHAPTER .....

AN ACT

Relating to bonds issued under Article XI-F(1) of the Oregon Constitution; creating new provisions; amending ORS 351.460; and declaring an emergency.

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

**SECTION 1.** Section 2 of this 2007 Act is added to and made a part of ORS chapter 351.

**SECTION 2.** (1) As used in this section:

(a) “Bond” means a bond issued under Article XI-F(1) of the Oregon Constitution.

(b) “Credit enhancement device” means a letter of credit, line of credit, bond insurance policy, standby purchase agreement, surety bond or other device or facility used to enhance the creditworthiness, liquidity or marketability of a bond.

(c) “Financial agreement” means an agreement for exchange of interest rates, as defined in ORS 287.025, a credit enhancement device or an agreement made in connection with a credit enhancement device, that is executed for one or more bonds.

(2) The State of Oregon, acting through the State Board of Higher Education or the State Treasurer, may:

(a) Enter into financial agreements.

(b) Identify, segregate, pledge and agree to pay amounts due under financial agreements entered into under this section from:

(A) The revenues, gifts, grants or building fees that are described in section 2, Article XI-F(1) of the Oregon Constitution; or

(B) The unexpended proceeds of the bonds for which financial agreements are executed.

(c) To the extent permitted by Article XI-F(1) of the Oregon Constitution, issue bonds to secure the state’s obligation to make payments under a financial agreement. If a bond is issued under this paragraph, the bond amount shall count toward the limit described in section 1, Article XI-F(1) of the Oregon Constitution, only to the extent that it increases the amount the state is obligated to pay under other bonds.

**SECTION 3.** ORS 351.460 is amended to read:

351.460. (1) The State Board of Higher Education 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 [three] **four** 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, under authority of Article XI-G of the Oregon Constitution and ORS 351.345, [and] revenue bonds issued under authority of ORS 288.855, **and amounts due under financial agreements entered into under section 2 of this 2007 Act.** The moneys in

the sinking fund are continuously appropriated to the board for such purposes. The fund may be invested by the State Treasurer, and the earnings from such investments shall be credited to the appropriate subfunds of the fund.

(2) The Higher Education Bond Sinking Fund shall consist of all moneys received from ad valorem taxes levied pursuant to ORS 291.445, 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 the fund, **all [and the] proceeds of the sale of refunding bonds and all moneys that the State of Oregon has agreed to hold in the Higher Education Bond Sinking Fund to pay amounts due under financial agreements entered into under section 2 of this 2007 Act.** Moneys credited to the Higher Education Bond Sinking Fund shall be credited to the appropriate subfunds of the 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. When the 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 and under authority of ORS 288.855 until such time as the proper subfund of the 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 or ORS 288.855 shall be applied only to those projects authorized under Article XI-F(1) of the Oregon Constitution or ORS 288.855.

**(5) The board may create a subfund in the Higher Education Bond Sinking Fund to pay amounts due under financial agreements entered into under section 2 of this 2007 Act and may credit to that subfund any moneys that the State of Oregon is obligated to use to pay those amounts due.**

*[(5)(a)]* **(6)(a)** The board may not use the sinking fund for any purpose other than the purposes for which the fund was created.

(b) Notwithstanding paragraph (a) of this subsection, the board may transfer any surplus in the sinking fund to other funds designated by the board if a balance remains in the sinking fund 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 and:

(A) The purposes for which the fund was created have been fulfilled; or

(B) A reserve sufficient to meet all existing and future obligations and liabilities of the fund has been set aside.

**SECTION 4. This 2007 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect July 1, 2007.**

**Passed by House June 20, 2007**

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Chief Clerk of House

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Speaker of House

**Passed by Senate June 23, 2007**

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President of Senate

**Received by Governor:**

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**Approved:**

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Governor

**Filed in Office of Secretary of State:**

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Secretary of State