

**A-Engrossed**  
**House Bill 2199**

Ordered by the House March 15  
Including House Amendments dated March 15

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

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Allows State Board of Higher Education or State Treasurer to enter into financial agreements for bonds issued under Article XI-F(1) of Oregon Constitution and **to pledge** to pay amounts due under financial agreements [*from available funds authorized by Legislative Assembly*].

Establishes subfund in Higher Education Bond Sinking Fund to provide for payment of amounts due under financial agreements.

Declares emergency, effective July 1, 2007.

**A BILL FOR AN ACT**

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

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

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

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

7 (a) **"Bond" means a bond issued under Article XI-F(1) of the Oregon Constitution.**

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

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

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

16 (a) **Enter into financial agreements.**

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

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

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

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

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **amount the state is obligated to pay under other bonds.**

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

3 351.460. (1) The State Board of Higher Education shall maintain with the State Treasurer[,] a  
4 Higher Education Bond Sinking Fund, separate and distinct from the General Fund. The Higher  
5 Education Bond Sinking Fund shall comprise [*three*] **four** separate subfunds to provide for the pay-  
6 ment of the principal of and the interest upon the bonds issued under authority of Article XI-F(1)  
7 of the Oregon Constitution and ORS 351.350, under authority of Article XI-G of the Oregon Consti-  
8 tution and ORS 351.345, [*and*] revenue bonds issued under authority of ORS 288.855, **and amounts**  
9 **due under financial agreements entered into under section 2 of this 2007 Act.** The moneys in  
10 the sinking fund are continuously appropriated to the board for such purposes. The fund may be  
11 invested by the State Treasurer, and the earnings from such investments shall be credited to the  
12 appropriate subfunds of the fund.

13 (2) The Higher Education Bond Sinking Fund shall consist of all moneys received from ad  
14 valorem taxes levied pursuant to ORS 291.445, all moneys that the Legislative Assembly may provide  
15 in lieu of such taxes, all of the net revenues received from the projects or undertakings for the fi-  
16 nancing of which the bonds were issued, including gifts, grants and building fees, such unpledged  
17 revenues of buildings and projects of like character as shall be allocated by the board, all moneys  
18 received as accrued interest upon bonds sold, all earnings from investments of the fund, **all** [*and*  
19 *the*] proceeds of the sale of refunding bonds **and all moneys that the State of Oregon has agreed**  
20 **to hold in the Higher Education Bond Sinking Fund to pay amounts due under financial**  
21 **agreements entered into under section 2 of this 2007 Act.** Moneys credited to the Higher Edu-  
22 cation Bond Sinking Fund shall be credited to the appropriate subfunds of the fund.

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

27 (4) The board shall apply student building fees, revenues, gifts and grants for the payment of the  
28 principal of and the interest upon the bonds issued under authority of Article XI-F(1) of the Oregon  
29 Constitution and ORS 351.350 and under authority of ORS 288.855 until such time as the proper  
30 subfund of the sinking fund and investments thereof, as supplemented by expected future income  
31 will, in the judgment of the board, be sufficient to meet in full the principal of and the interest upon  
32 all such outstanding bonds. Except for student building fees, income not thus required for the sink-  
33 ing fund shall be transferred to such other fund and account as the board shall designate. Student  
34 building fees for buildings constructed from the proceeds of bonds issued under Article XI-F(1) of the  
35 Oregon Constitution or ORS 288.855 shall be applied only to those projects authorized under Article  
36 XI-F(1) of the Oregon Constitution or ORS 288.855.

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

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

43 (b) Notwithstanding paragraph (a) of this subsection, the board may transfer any surplus in the  
44 sinking fund to other funds designated by the board if a balance remains in the sinking fund from  
45 sources other than student building fees for buildings constructed from the proceeds of bonds issued

1 under Article XI-F(1) of the Oregon Constitution and:

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

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

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

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