

**Enrolled**  
**House Bill 3265**

Sponsored by COMMITTEE ON REVENUE (at the request of Oregon Law Commission)

CHAPTER .....

AN ACT

Relating to public borrowing; creating new provisions; amending ORS 190.080, 190.083, 190.265, 223.235, 223.262, 238.692, 238.694, 238.695, 238.696, 238.698, 261.355, 261.371, 266.512, 267.345, 267.400, 267.630, 268.520, 268.620, 271.390, 276.429, 279A.025, 280.075, 280.450, 283.085, 283.087, 283.089, 283.092, 285B.323, 285B.326, 285B.335, 285B.344, 285B.350, 285B.362, 285B.371, 285B.455, 285B.470, 285B.473, 285B.479, 285B.533, 285B.548, 285B.563, 285B.575, 285B.584, 286.025, 286.063, 286.555, 286.560, 286.563, 286.566, 286.580, 286.585, 286.605, 286.615, 286.645, 286.750, 286.762, 286.768, 286.782, 286.788, 287.030, 287.032, 287.034, 287.040, 289.005, 289.200, 289.205, 293.175, 293.177, 293.824, 294.052, 294.326, 294.386, 294.443, 294.483, 294.820, 294.840, 294.870, 294.880, 295.005, 295.011, 310.140, 316.056, 327.705, 328.230, 328.280, 328.295, 328.321, 328.346, 328.351, 328.565, 341.616, 341.681, 341.685, 341.697, 341.702, 341.715, 341.721, 341.728, 341.739, 348.665, 351.315, 351.317, 351.345, 351.350, 351.450, 351.455, 351.460, 351.470, 352.790, 352.800, 352.805, 353.340, 353.350, 353.360, 354.685, 358.380, 367.010, 367.015, 367.025, 367.030, 367.105, 367.166, 367.555, 367.565, 367.600, 367.605, 367.615, 367.620, 367.635, 367.665, 367.715, 367.812, 370.140, 370.160, 383.023, 383.027, 390.063, 391.140, 401.844, 407.415, 407.425, 407.435, 407.525, 440.390, 450.640, 450.690, 450.915, 450.925, 451.545, 456.185, 456.190, 456.230, 456.519, 456.543, 456.615, 456.625, 456.645, 456.661, 456.670, 456.700, 456.720, 458.720, 468.195, 468.423, 468.437, 468.439, 470.225, 478.420, 478.845, 478.850, 478.855, 523.490, 530.130, 530.140, 530.230, 541.780, 543.670, 545.519, 545.541, 552.660, 553.670, 565.095, 568.803, 777.410, 777.447, 777.560, 777.565, 777.570, 777.943, 778.036, 778.145, 778.150, 778.155 and 838.065 and section 4, chapter 756, Oregon Laws 2005, sections 6 and 9, chapter 787, Oregon Laws 2005, and section 2, chapter 788, Oregon Laws 2005; repealing ORS 223.905, 223.910, 223.915, 223.920, 223.925, 285B.347, 286.010, 286.020, 286.031, 286.033, 286.036, 286.038, 286.041, 286.051, 286.056, 286.058, 286.061, 286.066, 286.071, 286.078, 286.105, 286.115, 286.125, 286.135, 286.145, 286.505, 286.507, 286.515, 286.525, 286.535, 286.545, 286.635, 286.700, 286.705, 286.710, 286.715, 286.720, 286.770, 286.790, 287.001, 287.003, 287.004, 287.006, 287.007, 287.008, 287.012, 287.014, 287.016, 287.018, 287.020, 287.022, 287.025, 287.028, 287.029, 287.033, 287.036, 287.038, 287.042, 287.045, 287.049, 287.052, 287.053, 287.054, 287.055, 287.056, 287.058, 287.062, 287.064, 287.066, 287.069, 287.070, 287.072, 287.074, 287.075, 287.140, 287.142, 287.144, 287.146, 287.202, 287.204, 287.206, 287.208, 287.210, 287.212, 287.214, 287.216, 287.218, 287.220, 287.252, 287.254, 287.256, 287.258, 287.260, 287.262, 287.264, 288.010, 288.020, 288.030, 288.040, 288.050, 288.060, 288.070, 288.090, 288.100, 288.110, 288.120, 288.150, 288.155, 288.160, 288.162, 288.165, 288.410, 288.420, 288.430, 288.435, 288.440, 288.450, 288.460, 288.500, 288.505, 288.513, 288.515, 288.517, 288.518, 288.520, 288.523, 288.525, 288.530, 288.535, 288.540, 288.545, 288.550, 288.560, 288.570, 288.580, 288.590, 288.592, 288.594, 288.596, 288.598, 288.600, 288.605, 288.610, 288.615, 288.620, 288.625, 288.630, 288.635, 288.637, 288.640, 288.645, 288.650, 288.655, 288.660, 288.665, 288.670, 288.675, 288.677, 288.680, 288.685, 288.690, 288.695, 288.805, 288.815, 288.825, 288.835, 288.845, 288.855, 288.865, 288.875, 288.885, 288.895, 288.915,

288.925, 288.935, 288.945, 288.950, 293.173, 293.292, 328.235, 358.395, 358.400, 367.670, 450.935 and 456.650; and appropriating money.

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

## **STATE BONDS**

**SECTION 1.** Sections 2 to 5, 7 to 11, 15 to 26 and 33 of this 2007 Act are added to and made a part of ORS chapter 286.

### **(Definitions)**

**SECTION 2.** As used in this chapter:

(1) "Agreement for exchange of interest rates" means a contract, or an option or forward commitment to enter into a contract, for the exchange of interest rates that provides for:

- (a) Payments based on levels of or changes in interest rates; or
- (b) Provisions to hedge payment, rate, spread or similar exposure including, but not limited to, an interest rate floor or cap or an option, put or call.

(2) "Bond":

(a) Means a contractual undertaking or instrument of the State of Oregon to repay borrowed moneys.

(b) Does not mean a financing agreement, as defined in ORS 283.085, if the principal amount of the agreement is \$100,000 or less, or a credit enhancement device.

(3) "Counterparty" means an entity with whom the State of Oregon enters into an agreement for exchange of interest rates.

(4) "Credit enhancement device":

(a) Means a letter of credit, line of credit, standby bond purchase agreement, bond insurance policy, reserve surety bond or other device or facility used to enhance the creditworthiness, liquidity or marketability of bonds or agreements for the exchange of interest rates; and

(b) Does not mean a bond.

(5) "Credit enhancement device fee" means a payment required to be made to the provider of a credit enhancement device securing a bond or securing an agreement for the exchange of interest rates.

(6) "General obligation bond" means a bond that constitutes indebtedness of the state under section 7, Article XI of the Oregon Constitution, and that is exempt from the \$50,000 limitation on indebtedness set forth in that section.

(7) "Refunding bond" means a bond of the State of Oregon that is issued to refund another bond, regardless of whether the refunding is on a current, advance, forward delivery, synthetic or other basis.

(8) "Related agency" means the state agency that requests the State Treasurer to issue bonds pursuant to section 7 of this 2007 Act or for which the State Treasurer has issued bonds.

(9) "Related bond" means a bond for which the State of Oregon enters into an agreement for exchange of interest rates.

(10) "Revenue" means all fees, tolls, excise taxes, assessments, property taxes and other taxes, rates, charges, rentals and other income or receipts derived by a state agency or to which a state agency is entitled.

(11) "Revenue bond" means a bond of the State of Oregon that is not a general obligation bond.

(12) "State agency":

(a) Includes a statewide elected officer, board, commission, department, division, authority or other entity, without regard to the designation given to the entity, that is within state government, as defined in ORS 174.111; and

(b) Does not include:

(A) A statewide elected judge;

(B) The State Treasurer;

(C) A local government, as defined in ORS 174.116;

(D) The Oregon Health and Science University;

(E) A special government body, as defined in ORS 174.117, except to the extent a special government body must be considered a state agency in order to achieve the purposes of Article XI-K of the Oregon Constitution; or

(F) A semi-independent state agency listed in ORS 182.451, 182.454, 377.835 or 674.305, or any other state agency denominated by statute as a semi-independent state agency.

(13) "Termination payment" means the amount payable under an agreement for exchange of interest rates by one party to another party as a result of the termination, in whole or part, of the agreement prior to the expiration of the stated term.

#### (Duties of State Treasurer)

**SECTION 3.** (1) The State Treasurer shall issue and sign bonds of the State of Oregon. The State Treasurer may sign a bond by manual or facsimile signature.

(2) Unless otherwise authorized by law other than this section, the State Treasurer may issue bonds only if a related agency has requested that the bonds be issued.

(3) In determining whether to issue bonds, the State Treasurer shall consider:

(a) The bond market for the type of bonds proposed for issuance;

(b) The terms and conditions of the proposed issue; and

(c) Other relevant factors that the State Treasurer considers necessary to protect the financial integrity of the State of Oregon.

(4) The State Treasurer may sell bonds for more than one related agency or for more than one purpose in a single sale or in combination with the sale of other bonds.

(5) The State Treasurer is an applicable elected representative for the purpose of approving the issuance of bonds when approval is required under section 147(f) of the Internal Revenue Code.

(6) The State Treasurer may adopt rules providing for the procedural or administrative requirements for the issuance of obligations, as defined in section 17 of this 2007 Act.

**SECTION 4.** A related agency shall, at the direction of the State Treasurer, provide the State Treasurer with:

(1) The information that the State Treasurer considers necessary to determine whether to issue the requested bonds, including assumptions underlying cash flow projections associated with the repayment of the bonds; and

(2) After the requested bonds are issued, the information that the State Treasurer considers necessary to:

(a) Administer the bonds; and

(b) Comply with federal and state securities law and bond covenants.

**SECTION 5.** (1) The State Treasurer may charge a related agency for reasonable fees and expenses in connection with the services, duties and activities of the State Treasurer related to the borrowing activities of the State of Oregon, including but not limited to the issuance and administration of obligations, as defined in section 17 of this 2007 Act.

(2) The State Treasurer may charge a public body, as defined in section 42 of this 2007 Act, reasonable fees and expenses in connection with:

(a) The services, duties and activities of the State Treasurer related to obligations, as defined in section 50 of this 2007 Act, of the public body; or

(b) Providing assistance to the Oregon Municipal Debt Advisory Commission or to the public body.

(3) The State Treasurer shall deposit all moneys received under this section in the Miscellaneous Receipts Account established under ORS 286.025.

(4) The State Treasurer shall adopt rules to implement the provisions of this section including, but not limited to, rules identifying the services, duties and activities for which charges are to apply.

(5) A related agency or public body shall pay to the State Treasurer reasonable fees and expenses charged under this section or under rules adopted pursuant to this section.

**SECTION 6.** Moneys received under section 5 of this 2007 Act are continuously appropriated to the State Treasurer for the payment of expenses of the State Treasurer in connection with bonds of the State of Oregon or a public body as defined in section 42 of this 2007 Act.

(Authority for Borrowing)

**SECTION 7.** (1) The State Treasurer may, at the request of a related agency:

(a) Issue bonds when a law of the State of Oregon authorizes bonds to be issued; and

(b) Issue refunding bonds without additional authorization.

(2) In consultation with the related agency, the State Treasurer may:

(a) Sell bonds at a competitive sale or a negotiated sale or in any other manner determined by the State Treasurer;

(b) Issue bonds the interest of which is exempt from federal income taxation or is not exempt from federal income taxation;

(c) Establish the principal amounts, redemption provisions, optional or mandatory tender provisions, interest rates or methods for determining variable or adjustable interest rates, denominations and other terms and conditions of the bonds;

(d) Establish maturity dates for bonds to provide for short-term, interim or long-term borrowing;

(e) Determine the form and content of a bond offering or disclosure document;

(f) Structure, market and issue bonds in the manner that the State Treasurer determines is in the best interest of the people of the State of Oregon; and

(g) Invest moneys held in connection with or derived from obligations, as defined in section 17 of this 2007 Act, without regard to the fund or account to which the moneys are credited under other provisions of law, alone or with other invested moneys. In addition, the State Treasurer may:

(A) Establish funds and accounts separate and distinct from the General Fund in order to invest the moneys as provided in ORS 293.701 to 293.820 and to arrange for redemption or purchase of bonds; and

(B) Segregate or pool moneys in order to promote financial and administrative efficiency and prudence in the management of moneys derived from obligations, as defined in section 17 of this 2007 Act, moneys available for bond repayment and other moneys, and in the administration of bond programs.

(3) Subject to the approval of the State Treasurer, moneys described in subsection (2)(g) of this section may be held by a trustee under a trust agreement, indenture, bond declaration or similar instrument and may be invested by the trustee at the direction of the related agency for which the moneys are held by the trustee. If consistent with the trust agreement, indenture, bond declaration or similar instrument, a related agency may authorize a trustee to invest on behalf of the agency in the investment funds or with other moneys invested by the State Treasurer under ORS 293.701 to 293.820 and may authorize a transfer of the moneys from the State Treasurer to the trustee.

(4) In addition to authority conferred by law other than this section, the State Treasurer or, with the approval of the State Treasurer, a related agency may:

(a) Execute and deliver indentures, trust agreements, auction agent agreements, broker-dealer agreements, tender agent agreements, bond declarations or similar instruments and other contracts related to the sale, issuance or security of the bonds;

(b) Deposit funds with trustees for the benefit of bond owners and the providers of credit enhancement devices; and

(c) Enter into covenants for the benefit of bond owners or the providers of credit enhancement devices.

(5) The covenants authorized by subsection (4)(c) of this section:

(a) May include, but are not limited to, covenants regarding the issuance of additional bonds, the priority of payment of bonds and, if authorized by law other than this section, the imposition and collection of rates, fees or other charges; and

(b) Are intended to:

(A) Improve the security of bond owners or providers of credit enhancement devices; or

(B) Maintain the tax-exempt status of interest payable on bonds.

(6) In addition to authority conferred by law other than this section, in consultation with the related agency, the State Treasurer may establish a debt service reserve for the purpose of paying when due the amounts owing on the bonds for which the debt service reserve is established. The debt service reserve may be funded out of the proceeds derived from the issuance and sale of the bonds for which the debt service reserve is being established or from other lawfully available funds.

(7) In consultation with the related agency, the State Treasurer shall select the underwriters for the sale of the bonds requested by the related agency. An agreement with the underwriters may be executed by the State Treasurer alone or with the related agency. An agreement with underwriters is not subject to the Public Contracting Code.

**SECTION 8.** (1) In addition to authority conferred by law other than this section, a related agency, with the approval of the State Treasurer, or the State Treasurer may:

(a) Enter into a credit enhancement device agreement in order to provide liquidity or security for bonds or for an agreement for exchange of interest rates. The credit enhancement device may be secured only by moneys that the State of Oregon may legally commit to secure payment of the bonds that are secured by the credit enhancement device or related to the agreement for exchange of interest rates.

(b) Obtain a credit enhancement device providing additional security for:

(A) The payment of all or a portion of amounts owing under bonds;

(B) The purpose of funding, in lieu of cash, all or a portion of a debt service reserve established with respect to bonds; or

(C) The payment of amounts owing under an agreement for exchange of interest rates.

(2) The related agency, with the approval of the State Treasurer, or the State Treasurer may pledge as security for the obligations of the State of Oregon arising under or with respect to a credit enhancement device all or a portion of revenues pledged to the payment of the bonds related to the credit enhancement device.

(3) The State Treasurer may issue a bond to the provider of a credit enhancement device to secure the obligations of the State of Oregon to pay amounts due to the provider.

#### (Bond Budget Authorization)

**SECTION 9.** (1) Each related agency shall report the plans of the related agency for the issuance of bonds during the next biennium. The related agency shall submit the related agency's report to the Governor by a date determined by the Governor and shall include in the report a description of bonds that the related agency intends to retire or defease during the next biennium.

(2) On or before a date determined by the Governor, the State Treasurer shall advise the Governor on the prudent maximum amount of bonds to be issued for each bond program. The State Treasurer shall consider available economic and financial data in preparing advice to be given to the Governor.

(3) As part of the Governor's budget report described in ORS 291.216, the Governor shall:

(a) Consider the prudent maximum amounts advised by the State Treasurer pursuant to subsection (2) of this section to determine the Governor's total recommended amount; and

(b) Recommend to the Legislative Assembly the total amount of bonds the State Treasurer may issue for each bond program for a biennium.

(4) The Legislative Assembly shall determine the amount of bonds the State Treasurer may issue for each state agency for a biennium. If the Legislative Assembly fails to make the determination described in this subsection by the first day of the biennium, the unused portion of the authorization the Legislative Assembly made for the preceding biennium is deemed to carry forward for the current biennium at the amount authorized for the preceding biennium until the earlier of:

(a) The date on which legislation authorizing the amount of bonds for the current biennium is enacted; or

(b) The date on which the Legislative Assembly adjourns sine die.

(5) The amount of bonds that may be issued under bond programs may be modified by the Governor. However, the Governor may not modify the amount of bonds that may be issued under bond programs in a way that would cause the maximum amount established by the Legislative Assembly for a category of bond programs to be exceeded if the Legislative Assembly:

(a) Has categorized the bonds that may be issued under bond programs as general obligation, direct revenue and pass-through revenue bonds; and

(b) Assigned a maximum amount to each category.

(6) This section applies to bonds:

(a) Unless the bonds are expressly exempted from the requirements of this section.

(b) Except refunding bonds.

#### (Agreements for Exchange of Interest Rates)

**SECTION 10.** (1) A related agency with the approval of the State Treasurer, or the State Treasurer on behalf of a related agency, may enter into agreements for exchange of interest rates with counterparties. Agreements for exchange of interest rates may be made to manage payment, interest rate, spread or similar exposure undertaken in connection with a related bond upon a determination by the related agency, or by the State Treasurer on behalf of the related agency, that the agreement benefits the State of Oregon.

(2) Subject to covenants applicable to a related bond and the limitations of this section, payments required under an agreement for the exchange of interest rates by the related agency, or the State Treasurer on behalf of the related agency, may:

(a) Be treated as interest payments on the related bond;

(b) Be made from revenues or other moneys that are pledged or otherwise committed to pay the related bond; and

(c) Rank in an order of priority of payment relative to the payment of the related bond as the related agency, or the State Treasurer on behalf of the related agency, determines.

(3) In connection with entering into an agreement under this section, a related agency, or the State Treasurer on behalf of the related agency, may enter into a credit enhancement device for an agreement for exchange of interest rates.

(4) An agreement for exchange of interest rates is subject only to the limitations of this section and is not subject to a limitation applicable to the related bond.

(5) With the approval of the State Treasurer, a related agency may use moneys derived from the issuance and sale of bonds to pay termination payments due under an agreement entered into under this section.

(6) A related agency, with the approval of the State Treasurer, may:

(a) Create reserves to pay amounts due under an agreement for exchange of interest rates; and

(b) Fund the reserves with moneys derived from the issuance and sale of bonds or from revenues or other moneys described in subsection (2)(b) of this section.

**(Tax Anticipation Bonds)**

**SECTION 11.** (1) The State Treasurer may issue bonds to finance all or a portion of the current expenses of this state. The amount of bonds issued under this section at any time may not exceed the State Treasurer's estimate of the cash flow deficit in revenues available to pay the expenses that are financed with the bonds, plus amounts for reasonable reserves and costs.

(2) To estimate the amount of cash flow deficit, the State Treasurer shall take into account the most recent cash flow forecast made by the Oregon Department of Administrative Services and any other information the State Treasurer determines is reliable and relevant.

(3) When the State Treasurer issues bonds under this section:

(a) The Oregon Department of Administrative Services shall account for and administer the proceeds of the bonds and the repayment of the bonds. The State Treasurer, in consultation with the Oregon Department of Administrative Services, shall determine the appropriate investment strategy for the proceeds of the bonds. The State Treasurer shall notify the Director of the Oregon Department of Administrative Services, the Legislative Fiscal Officer and the Legislative Revenue Officer before issuing bonds under this section.

(b) The State Treasurer may pledge:

(A) All or a portion of the revenues of the State of Oregon to pay bonds issued under this section.

(B) The full faith and credit of the State of Oregon to pay bonds issued under this section if the bonds are payable from the Short Term Borrowing Account established under ORS 293.175 and the bonds mature not later than the end of the biennium in which the bonds are issued.

(c) A state agency may use the proceeds of bonds issued under this section:

(A) For a purpose for which the revenues that are pledged to pay the bonds may be used;

(B) To pay principal, interest and premium, if any, on the bonds or a rebate or penalty due to the United States in connection with the bonds;

(C) To pay the cost of credit enhancement devices with respect to the bonds;

(D) To pay the costs of the State Treasurer and the Oregon Department of Administrative Services of issuing, administering or maintaining the bonds including, but not limited to, the cost of a consultant or adviser retained by the State Treasurer or the Oregon Department of Administrative Services; or

(E) To make payments with respect to agreements for the exchange of interest rates.

(4) This section constitutes complete authority for the State Treasurer to issue bonds described in this section.

(5) Section 9 of this 2007 Act does not apply to bonds authorized by this section.

(6) The requirements and limitations that apply to certificates of indebtedness issued under ORS 293.165 do not apply to bonds issued by the State Treasurer under this section.

(7) This section and ORS 293.175 constitute complete authorization by the Legislative Assembly for the use and expenditure of the proceeds of the bonds and the revenues pledged to pay those bonds for the purposes described in subsection (3)(c) of this section. Additional appropriation or authorization is not necessary. The authorization contained in this section

and ORS 293.175 to spend moneys for the purposes described in subsection (3)(c) of this section does not constitute an appropriation for purposes of ORS 291.357.

(8) The proceeds of bonds issued by the State Treasurer under this section do not constitute revenues received by the General Fund for purposes of section 14, Article IX of the Oregon Constitution, and ORS 291.349.

(9) The State Treasurer may perform the duties and exercise the powers of a related agency under this section.

**SECTION 12.** ORS 293.175 and 293.177 are added to and made a part of ORS chapter 286.

**SECTION 13.** ORS 293.175 is amended to read:

293.175. (1) The Short Term Borrowing Account is created in the General Fund.

(2) The State Treasurer shall credit the proceeds of [obligations] bonds issued by the State Treasurer under [ORS 288.165] section 11 of this 2007 Act to the Short Term Borrowing Account. The State Treasurer shall, in addition, transfer to the Short Term Borrowing Account any amounts that are pledged to pay [obligations] bonds issued by the State Treasurer under [ORS 288.165] section 11 of this 2007 Act and that are required to pay those [obligations] bonds.

(3) Amounts in the Short Term Borrowing Account are continuously appropriated to the respective state agencies for which the revenues that are pledged to pay the bonds were appropriated, for the purposes described in [ORS 293.173 (3)(c)] section 11 (3)(c) of this 2007 Act. Amounts appropriated under this subsection may not be taken into account in preparing budget estimates, plans or reports required to be prepared under ORS 291.201 to 291.222.

*[(4) This section and ORS 293.173 constitute complete authorization by the Legislative Assembly for the use and expenditure of the proceeds of the obligations and the taxes and revenues pledged to pay those obligations for the purposes described in ORS 293.173 (3)(c). No additional appropriation or authorization is necessary. The authorization contained in this section and ORS 293.173 to spend moneys for the purposes described in ORS 293.173 (3)(c) does not constitute an appropriation for purposes of ORS 291.357. The proceeds of obligations issued by the State Treasurer under ORS 288.165 do not constitute revenues received by the General Fund for purposes of section 14, Article IX of the Oregon Constitution, and ORS 291.349.]*

**SECTION 14.** ORS 293.177 is amended to read:

293.177. Within 90 days following the end of a biennium, the State Treasurer shall report in writing to the Legislative Fiscal Officer and the Legislative Revenue Officer on the amount of [obligations] bonds issued by the State Treasurer under [ORS 288.165] section 11 of this 2007 Act, the amount spent in repayment of those [obligations] bonds, the issuance costs and interest costs of those [obligations] bonds and the interest revenues earned by the proceeds of those [obligations] bonds.

#### (Debt Limit Calculation)

**SECTION 15.** (1) When calculating compliance with a constitutional or statutory debt limit:

(a) If a bond is issued to a provider of a credit enhancement device for a bond that is subject to a debt limit, the bond issued to the provider must be taken into account only to the extent that the amount of the bond issued to the provider exceeds the amount of the bond that is secured by the credit enhancement device.

(b) The amount of interest to be paid on bonds, whether paid currently or deferred, is not taken into account.

(c) For a zero coupon bond or other original issue discount bond on which periodic interest payments are not made, only the accreted value of the bond on the date the bond is issued is taken into account.

(d) The state may deduct from the amount of outstanding bonds:

(A) The amount of moneys and investments held by the state or a trustee of the state to pay bonds that have not been defeased; and

**(B) The principal amount of bonds that have been defeased.**

**(2) For purposes of this section, a bond is defeased if:**

**(a) The state has set aside in an irrevocable escrow government obligations, as defined in section 57 of this 2007 Act, the receipts from which have been calculated by a certified public accountant or other experienced professional to be sufficient, without reinvestment, to pay the principal, interest and premium, if any, due on the bond at maturity or on prior redemption; or**

**(b) The state has complied with the provisions in the documents authorizing the bond that provide for the payment or defeasance of the bond.**

**NOTE:** Section 16 was deleted by amendment. Subsequent sections were not renumbered.

**(Payment of Bonds: Pledges, Liens and Collateral)**

**SECTION 17.** As used in this section and section 18 of this 2007 Act:

**(1) "Obligation" means:**

**(a) A bond;**

**(b) An agreement for exchange of interest rates with the State of Oregon; or**

**(c) A credit enhancement device given as additional security for a bond.**

**(2) "Operative document" means a bond declaration, trust agreement, indenture, security agreement or other document in which the State of Oregon pledges property as security for an obligation.**

**(3) "Pledge" means:**

**(a) To create a security interest in or a lien on property to secure payment or performance of an obligation, by mortgaging, assigning or encumbering property or by creating a security interest in property by any other manner.**

**(b) A security interest in or lien on property created under paragraph (a) of this subsection.**

**(4) "Pledgee" means:**

**(a) A trustee for the holder of an obligation; or**

**(b) The holder of an obligation if a trustee was not appointed in the operative document or if the operative document authorizes the holder of an obligation to foreclose the lien of a pledge and enforce the remedies consequent to the pledge in lieu of the trustee.**

**(5) "Property" means:**

**(a) Real or personal property, tangible or intangible, whether owned when the pledge is made or acquired subsequently to the time the pledge is made; and**

**(b) Revenues, contract rights, receivables or securities.**

**SECTION 18.** (1) The Uniform Commercial Code does not apply to the creation, perfection, priority or enforcement of a lien of a pledge made by a state agency or the State Treasurer.

**(2) When authorized by law to secure obligations with property of the State of Oregon, a state agency, or the State Treasurer acting under the State Treasurer's own authority or on behalf of a state agency with the approval of the state agency, may pledge all or a portion of the property as security for payment of the obligations and for performance of a covenant or agreement entered into in relation to the issuance of the obligations.**

**(3) The lien created by a pledge described in subsection (2) of this section is valid and binding from the time the pledge is made. Pledged property is subject immediately to the lien of the pledge without physical delivery, filing or any other act.**

**(4) Except as otherwise expressly provided in an operative document, the lien of the pledge is superior to and has priority over all other claims and liens of any kind.**

**(5) When property subject to a pledge is acquired by the State of Oregon after the pledge is made:**

(a) The property is subject to the lien upon acquisition by the State of Oregon without physical delivery, filing or any other act; and

(b) The lien relates back to the time the pledge was originally made.

(6)(a) The State Treasurer, or the related agency, may reserve the right to pledge property as security for a subsequently issued obligation.

(b) If the State Treasurer or related agency reserves the right described in paragraph (a) of this subsection, subject to the terms of the operative document that created the previous pledge, the lien of the subsequent pledge may be on a parity or pari passu basis with the lien of the previous pledge, on a prior and superior basis with the lien of the previous pledge or on a subordinate basis with the lien of the previous pledge, as specified in the operative document creating the subsequent pledge. The lien of the subsequent pledge:

(A) Has the priority specified in the operative document creating the subsequent pledge; and

(B) Is superior to and has priority over other claims and liens of any kind except the lien of a pledge with which the lien of the subsequent pledge is on a parity or subordinate basis, as specified in the operative document.

(7) Except as provided in subsection (8) of this section, a pledgee may commence an action in a court of competent jurisdiction to foreclose the lien of the pledge and exercise rights and remedies available to the pledgee under the operative document.

(8) When pledged property is in a fund for debt service reserves or payments, a pledgee may foreclose the lien of the pledge by applying the property to the payment of obligations subject to the terms, conditions and limitations in the operative document.

(9) An initiative or referendum measure approved by the electors of the State of Oregon that purports to change statutory provisions affecting rates, fees, tolls, rentals or other charges may not be given any force or effect if to do so would impair existing covenants made with holders of existing obligations regarding the imposition, levy or collection of the rates, fees, tolls, rentals or other charges pledged to secure outstanding obligations.

(10) If authorized by law other than this section to set rates, fees or other charges that are pledged to pay obligations, a state agency may enter into rate covenants. Rate covenants authorized by this subsection may obligate a state agency to periodically set the rates and charges:

(a) That generate pledged revenues at specific levels including, but not limited to, a specific monetary charge for each unit of commodity or service provided or a schedule of rates and charges that includes fixed and variable components;

(b) At levels sufficient to maintain underlying credit ratings assigned to obligations by one or more nationally recognized credit rating services without regard to any improvement in credit ratings due to the provision of additional security for the obligations by a credit enhancement device;

(c) That generate pledged revenues each year in amounts at least equal to operations and maintenance expenses of the state agency that produces the pledged revenues, plus debt service on obligations, plus an additional amount that is reasonably required to obtain favorable terms for the obligations; or

(d) In accordance with a formula established in the operative document governing obligations. The formula may provide for rates to be determined by reference to factors including, but not limited to:

(A) Historical operating expenses;

(B) Projected future operating expenses;

(C) The funding of depreciation;

(D) The costs of capital improvements;

(E) The costs of complying with contractual requirements and covenants;

(F) The costs of complying with regulatory requirements;

(G) Reports of independent consultants regarding the required level of pledged revenues;

**(H) Debt service on the obligations; and**

**(I) The funds needed to establish or maintain reserves required by law or contract and the funds needed to maintain an unencumbered carryforward fund balance or working capital to meet unanticipated expenses or fluctuations in revenues that may arise.**

**(11) A rate covenant authorized by this section is a contract that binds the State of Oregon and is enforceable against the State of Oregon in accordance with the terms of the rate covenant.**

**(12) The State Treasurer, or a related agency with the approval of the State Treasurer, may pledge the full faith and credit of the State of Oregon as security for the payment of general obligation bonds. A pledge of the full faith and credit authorized by this subsection does not, by itself, create a lien on the revenues or property of the state.**

**NOTE:** Section 19 was deleted by amendment. Subsequent sections were not renumbered.

#### **(Administration of Bond Programs)**

**SECTION 20. (1) The State Treasurer or a related agency may enter into one or more agreements for bond counsel services for a period of not less than one year during any biennium in which there are bonds outstanding that were issued for the state agency or during any biennium in which the state agency expects the State Treasurer to issue bonds for an agency program. A state agency may not enter into an agreement for bond counsel services unless the State Treasurer and the Attorney General have reviewed and approved the terms and conditions of the agreement. Before approving an agreement, the State Treasurer shall consider the reputation, experience and credentials of the bond counsel, including the individuals expected to actually fulfill the contract work.**

**(2) Except as provided in subsection (3) of this section, the appointment of bond counsel may not be construed as authorizing bond counsel to advise or represent the state on matters that are committed by statute to the Attorney General.**

**(3) The services provided under a bond counsel agreement may include:**

**(a) Advising a state agency or the State Treasurer concerning the legality of specific proposed taxable or tax-exempt bonds and the compliance of obligations with applicable law, including but not limited to federal securities and tax laws;**

**(b) Issuing opinions to a state agency, the State Treasurer or other parties concerning the enforceability of, authority for and tax status of bonds, agreements for exchange of interest rates, credit enhancement devices or similar associated documents and on the lawful use of the proceeds of the bonds, as may be required by the demands of the marketplace for the bonds;**

**(c) Advising a state agency or the State Treasurer on legal procedures and practices in the bond marketplace, including advice on the structuring and sale of bonds;**

**(d) Preparing or assisting in the preparation of documents related to a specific issue of bonds, including but not limited to an authorizing resolution or declaration, a trust indenture, a prospectus, a preliminary official statement, an official statement, a bond sale notice, a bond form, a bid form, a bond purchase agreement, an agreement for exchange of interest rates, a credit enhancement device or a similar document necessary or desirable to sell bonds;**

**(e) Advising a state agency or the State Treasurer concerning the maintenance of the tax status of specific bonds, compliance with any requirements for representations or disclosures relating to the bonds, compliance with any documents executed as part of the issuance of the bonds and federal laws related to bond programs that may be available to a state agency;**

**(f) Advising a state agency or the State Treasurer concerning accounting, investment or administrative procedures recommended or required for compliance with federal or state**

securities or tax or rebate requirements relating to bonds that were issued for the agency or that the agency expects to issue; and

(g) Advising and assisting a state agency or the State Treasurer in responding to an inquiry received from or an audit by a federal or state regulatory body concerning:

(A) The tax status of interest paid on the bonds;

(B) The marketing of the bonds;

(C) Requirements of federal law related to the use of bond proceeds or the program for which the bonds were issued; or

(D) Other matters within the jurisdiction of the federal or state regulatory body relating to bonds that were issued by the state agency.

(4) In addition to entering into an agreement described in subsection (3) of this section, the State Treasurer or a related agency may appoint bond counsel by letter, certificate or otherwise, to provide the services described in subsection (3) of this section for an individual conduit revenue bond sale.

(5) The State Treasurer or, with the approval of the State Treasurer, a related agency may enter into an agreement with and retain the services of one or more providers of financial advisory services. When considering whether to enter into or approve an agreement with a provider of financial advisory services, before approving the agreement, the State Treasurer shall consider the reputation, experience and credentials of the adviser, including the individuals expected to actually fulfill the contract work.

(6) Except for the expenses of bond counsel services provided under subsection (4) of this section for conduit revenue bond sales, the related agency shall pay the expenses of any agreements entered into under this section and may use bond proceeds to pay those expenses.

(7) The Public Contracting Code does not apply to agreements entered into under this section.

**SECTION 21.** (1) In addition to authority conferred by law other than this section, the State Treasurer or, with the approval of the State Treasurer, a related agency may enter into an agreement with and retain the services of one or more:

(a) Providers of investment advisory services or advisory services related to agreements for exchange of interest rates;

(b) Providers of banking services;

(c) Escrow agents;

(d) Providers of fiscal or paying agent services;

(e) Collateral custodians;

(f) Providers of investment contracts;

(g) Remarketing agents; or

(h) Other bond-related or credit enhancement device-related agents or service professionals, or other persons with relevant expertise, to assist the State Treasurer or the related agency in the performance of the duties of the State Treasurer or the related agency under this chapter.

(2) The related agency shall pay the expenses incurred in providing the services described in this section unless the related agency requires a recipient of bond sale proceeds to pay the expenses.

(3) The Public Contracting Code does not apply to an agreement entered into under this section.

(4) When the Oregon Constitution or a law of this state authorizes bond proceeds to be spent for a particular purpose, the authorization also includes authorization to spend bond proceeds for bond counsel, attorney, consultant, fiscal or paying agent, trustee or other professional fees and other expenses incurred by the related agency or the State Treasurer to authorize, issue, administer and repay the bonds, including fees payable to the State Treasurer.

(State Taxation of Bond Interest)

**SECTION 22.** Interest on all bonds of the State of Oregon is exempt from personal income tax under ORS chapter 316.

(Federal Taxation of Bond Interest)

**SECTION 23.** The State Treasurer or a related agency may enter into covenants for the benefit of owners of bonds that are intended to allow the bonds to bear interest that is excludable from gross income under the federal Internal Revenue Code or that is otherwise exempt from taxation by the United States. The State Treasurer or a related agency may adopt rules or procedures that are intended to facilitate compliance with those covenants, and may take any action that is required to comply with those covenants. Covenants authorized by this section include, but are not limited to, covenants to:

- (1) Pay any rebates of earnings or penalties to the United States;
- (2) Invest proceeds alone or in combination with other moneys in investments that have different maturities, yields or credit qualities than the state would acquire under the investment standards specified in ORS 293.721 and 293.726 and other similar laws, but only if those investments facilitate compliance with covenants described in this section; or
- (3) Restrict the expenditure of bond proceeds or restrict the operation of, or otherwise limit the use of, facilities that are financed with bonds.

(Remitting Funds)

**SECTION 24.** (1) The State Treasurer may adopt rules, or establish by contract or policy, procedures and requirements for the cancellation, purchase or redemption of bonds, the remittance of funds to pay bonds, or the replacement of lost or destroyed evidence of bonds or interest coupons.

(2) If the State Treasurer decides:

(a) To replace lost or destroyed evidence of bonds or coupons, or to make payment in lieu of replacement, the State Treasurer may require indemnity, deposit or other form of assurance or proof of ownership to ensure against conflicting, duplicative or fraudulent claims. The State Treasurer may charge a fee to the person seeking replacement or payment in lieu of replacement under this section, in an amount sufficient to reimburse the State Treasurer for costs incurred in providing replacement or payment under this subsection.

(b) Not to replace or make payment with respect to a lost or destroyed bond or coupon, the person seeking replacement or payment under this section may appeal the determination as a review of an order other than a contested case under ORS 183.484.

(Public Records)

**SECTION 25.** The records of bond ownership are not public records for purposes of ORS 192.410 to 192.505 or other law governing the disclosure of information.

(Secretary of State Audits)

**SECTION 26.** (1) The Secretary of State shall conduct a financial audit of the bond programs of each state agency at least annually. The Secretary of State shall publish the audit as soon as possible following the end of the audit period.

(2) The Oregon Department of Administrative Services may, on an annual basis, exempt a bond program from the requirements of subsection (1) of this section.

(State Debt Policy Advisory Commission)

**SECTION 27.** ORS 286.555 is amended to read:

286.555. The State Debt Policy Advisory Commission shall advise the Governor and the Legislative Assembly regarding policies and actions that enhance and preserve the state's credit rating and maintain the future availability of low-cost capital financing. In carrying out this function, the commission shall **at least annually prepare a report showing the consolidated bond profile of this state. The report must include:**

**(1) The total amount of outstanding bonds for the most recently concluded fiscal year.**

*[(1)] (2) [Develop] A six-year forecast of [debt] the state's borrowing capacity targets by [debt type and] repayment source based on the policies and actions established under this section.*

*[(2) Convert debt capacity targets to net available capacity estimates by reflecting amounts of capacity currently issued, the planned issuance of prior authorized debt and estimates of debt repayment.]*

*[(3) Report findings, including net debt capacity, and recommendations to the Governor and to the Legislative Assembly by April 1 of each even-numbered year.]*

**(3) A calculation of the state's net remaining borrowing capacity by repayment source.**

(Private Activity Bond Committee)

**SECTION 28.** ORS 286.605 is amended to read:

286.605. As used in ORS 286.605 to 286.645:

(1) "Issuer" means an entity that may issue private activity bonds that are qualified bonds on which the interest is exempt from federal taxation.

(2) "Private activity bonds" has the meaning given in section 141 of the Internal Revenue Code *[of 1986]*.

**SECTION 29.** ORS 286.615 is amended to read:

286.615. (1) The Private Activity Bond Committee is established. It shall consist of **the State Treasurer or the designee of the State Treasurer**, one representative *[each]* from the Oregon Department of Administrative Services and *[from the State Treasurer and]* one public representative appointed to serve at the pleasure of the Governor.

(2) The *[representative from the department]* **State Treasurer, or the State Treasurer's designee**, shall serve as chair of the committee.

(3) The purpose of private activity bonding in this state *[shall be]* **is** to maximize the economic benefits of *[such]* **private activity** bonding to the citizens of this state. *[To this end,]* The committee shall adopt by rule standards for amounts *[allotted to it]* **allocated to the committee** for further allocation for economic development, housing, education, redevelopment, public works, energy, waste management, waste and recycling collection, transportation and other activities *[which]* **that** the committee determines will benefit the citizens of this state. In developing standards, the committee shall:

(a) Survey the expected need for private activity bond allocations at least once each year;

(b) Develop strategies for reserving and allocating the limit *[which]* **that** are designed to maximize the availability of tax exempt financing among competing sectors of the Oregon economy; and

(c) Ensure that *[such]* **the** standards include but are not limited to **standards that:**

(A) Support projects that increase the number of family wage jobs in this state.

(B) Promote economic recovery in small cities heavily dependent on a single industry.

(C) Emphasize development in underdeveloped rural areas of this state.

(D) Utilize educational resources available at institutions of higher education.

(E) Support development of the state's small businesses, especially businesses owned by women and members of minority groups.

(F) Encourage use of Oregon's human and natural resources in endeavors *[which]* **that** harness Oregon's economic comparative advantages.

*[(G) Limit assistance to projects that assist businesses selling goods and services in markets for which national or international competition exists.]*

(4) The state private activity bond *[limit allotted]* **volume cap allocated** to the Private Activity Bond Committee as provided in *[ORS 286.635]* **section 31 of this 2007 Act** shall be allocated and reallocated among issuers by the Private Activity Bond Committee as follows:

(a) Any amounts not reserved to an issuer or a class of issuers under the *[limitation]* **authorization adopted by the Legislative Assembly** under *[ORS 286.525]* **section 9 of this 2007 Act** shall be allocated or reallocated by the committee under rules adopted under subsection (3) of this section.

(b) Any amounts provided for in the *[limitation under ORS 286.525]* **authorization adopted by the Legislative Assembly under section 9 of this 2007 Act** that are unused shall be carried forward for use as provided by rules adopted under subsection (3) of this section.

(c) The rules adopted by the committee shall limit the period of time for which an allocation of private activity bonding authority is effective. *[Such]* **The** rules shall *[insure]* **ensure that** allocations made during a calendar year *[shall be]* **are** used during that calendar year or **that** the unused amount of the allocation *[shall be]* **is** reallocated *[during that calendar year]* **or carried forward.**

(5) Unused allocations *[shall not be]* **are not** transferable among issuers but *[shall be]* **are** available for reallocation.

**SECTION 30.** Section 31 of this 2007 Act is added to and made a part of ORS 286.605 to 286.645.

**SECTION 31.** The Legislative Assembly may allocate the amount of private activity bond volume cap among state agencies and the Private Activity Bond Committee for the two calendar years that begin in a biennium. Any volume cap that the state receives that is not allocated by the Legislative Assembly may be allocated by the Private Activity Bond Committee.

**SECTION 32.** ORS 286.645 is amended to read:

286.645. The *[office of]* State Treasurer shall maintain the official state private activity bond *[limit]* **volume cap** records and provide administrative support to the Private Activity Bond Committee *[and the Advisory Council on the Allocation of the State Private Activity Bond Limit]*.

#### **(Baccalaureate Bonds)**

**SECTION 33.** (1) As used in this section:

(a) “Oregon Baccalaureate Bonds” means bonds of the State of Oregon issued by the State Treasurer at the request of the Oregon University System that are designated as baccalaureate bonds.

(b) “Post-secondary education” means training and instruction provided by fully accredited public or private institutions of higher learning, community colleges and post-high-school career schools.

(2) The Legislative Assembly encourages citizens of the State of Oregon to avail themselves of post-secondary education opportunities.

(3) The Legislative Assembly finds:

(a) For the benefit of its citizens, the state supports a system of common schools, institutions of higher education and community colleges.

(b) A post-secondary education advances a citizen’s ability to pursue life, liberty and happiness through a wide range of employment opportunities.

(c) A well-educated citizenry contributes to the economic well-being of the state and nation.

(d) A well-trained and skilled citizenry enhances economic development of the state.

(e) While students have just begun their education upon completion of a formal education, a lifetime pursuit of learning contributes to a well-informed citizenry and to Oregon's cherished quality of life.

(f) Citizens educated in Oregon are more likely to pursue careers in Oregon.

(g) It is in the interest of this state to encourage its citizens to plan and save for a post-secondary education.

(h) An Oregon Baccalaureate Bond program that provides citizens an opportunity to save for a post-secondary education for their children, themselves or any citizen is in the social and economic interest of the State of Oregon.

(i) A systematic way to save for post-secondary education can assist all of Oregon's higher education, community college and career schools to better project enrollments, thereby permitting the prudent allocation of scarce resources.

(4) At the request of the Oregon University System, the State Treasurer may:

(a) Issue bonds as Oregon Baccalaureate Bonds, to encourage investors to save for post-secondary education opportunities.

(b) Investigate and implement the means and procedures to facilitate the participation by the broadest practical range of investors in the Oregon Baccalaureate Bond program. The means and procedures may include, but are not limited to, adjustments in the denominations in which the bonds are issued and the frequency with which the bonds are issued.

(5) The purchase of an Oregon Baccalaureate Bond does not guarantee the purchaser, owner or beneficiary of the bond admittance to a public or private post-secondary institution.

#### (Lottery Bonds)

**SECTION 34.** (1) ORS 286.560 to 286.580 are added to and made a part of ORS chapter 286.

(2) ORS 286.585 is added to and made a part of ORS 286.560 to 286.580.

**SECTION 35.** ORS 286.560 is amended to read:

286.560. As used in ORS 286.560 to 286.580[,] and 327.700 to 327.711 [*and 348.716*], unless the context requires otherwise:

(1) "Appropriated funds" for a particular fiscal year means any moneys, other than unobligated net lottery proceeds, that are specifically appropriated or otherwise specifically made available by the Legislative Assembly or the Emergency Board for a fiscal year to replenish reserves established as additional security for lottery bonds pursuant to the authority granted in ORS 286.580 (6).

(2) "Bond-related costs" means:

(a) The costs and expenses of issuing, administering and maintaining lottery bonds and the lottery bond program, including but not limited to paying or redeeming lottery bonds, paying amounts due in connection with credit enhancements or any instruments authorized by ORS 286.580 (6) and paying the administrative costs and expenses of the State Treasurer and the Oregon Department of Administrative Services, including costs of consultants or advisors retained by the State Treasurer or the Oregon Department of Administrative Services for the lottery bonds or the lottery bond program;

(b) The costs of funding any lottery bond reserves;

(c) Capitalized interest for lottery bonds;

(d) Rebates or penalties due to the United States in connection with lottery bonds; and

(e) Any other costs or expenses that the State Treasurer or the Director of the Oregon Department of Administrative Services determines are necessary or desirable in connection with issuing lottery bonds or maintaining the lottery bond program.

(3) "Lottery bonds" means:

(a) The state park lottery bonds authorized by ORS 390.060 to 390.067, the infrastructure lottery bonds authorized by ORS 285B.530 to 285B.548 and the education lottery bonds authorized by ORS 327.700 to 327.711;

(b) Any other bonds payable from the revenues of the Oregon State Lottery unless the legislation authorizing those bonds expressly provides that those bonds *[shall]* **may** not be issued under ORS 286.560 to 286.580 *[and 348.716]*; and

(c) Any refunding lottery bonds.

(4) "Lottery Bond Administrative Fund" means the fund created by ORS 286.573.

(5) "Lottery Bond Fund" means the fund created by ORS 286.570.

(6) "Lottery bond program" means a financing program authorized by:

(a) ORS 285B.530 to 285B.548, 327.700 to 327.711 or 390.060 to 390.067; or

(b) Any other Act of the Legislative Assembly authorizing the issuance of bonds that are payable from the revenues of the Oregon State Lottery, unless the legislation authorizing those bonds expressly provides that those bonds *[shall]* **may** not be issued under ORS 286.560 to 286.580 *[and 348.716]*.

(7) "Refunding lottery bonds" means any bonds issued for the purpose of refunding any lottery bonds.

(8) "Unobligated net lottery proceeds" means all revenues derived from the operation of the Oregon State Lottery except for:

(a) The revenues used for the payment of prizes and expenses of the Oregon State Lottery as provided in section 4 (4)(d), Article XV of the Oregon Constitution, and ORS 461.500 and 461.510;

(b) The revenues required to be applied, distributed or allocated as provided in ORS 461.543; and

(c) The revenues required to be allocated to pay the Westside lottery bonds and any bonds issued to refund the Westside lottery bonds, to fund reserves for any of those bonds and to pay related costs of the Department of Transportation.

(9) "Westside lottery bonds" means the bonds issued by this state under the authority granted in ORS 391.140 that, notwithstanding ORS 267.334, 285B.419, 285B.422, 285B.482, 285B.530 to 285B.548, 286.560 to 286.580, 327.700 to 327.711, *348.716* and 390.060 to 390.067, shall have a claim on lottery funds that is superior to the claim of the lottery bonds authorized by ORS 286.560 to 286.580 *[and 348.716]*.

**SECTION 36.** ORS 286.563 is amended to read:

286.563. (1) The Legislative Assembly declares that the purpose of ORS 286.560 to 286.580 *[and 348.716]* is to combine previously enacted legislation authorizing lottery bonds into a single Act that provides uniform administrative procedures for all lottery bonds issued by the State of Oregon.

(2) The lottery bonds issued under ORS 286.560 to 286.580 *[and 348.716]* shall be special obligations of the State of Oregon that are payable solely from unobligated net lottery proceeds, amounts available in the Lottery Bond Fund and in any reserve accounts established for lottery bonds under ORS 286.560 to 286.580 *[and 348.716]* and any appropriated funds. The faith and credit of the State of Oregon or any of its taxing power shall not be pledged or committed to the payment of lottery bonds or any other commitment of the State of Oregon authorized by ORS 286.560 to 286.580 *[and 348.716]*.

**SECTION 37.** ORS 286.566 is amended to read:

286.566. (1) Any legislation authorizing issuance of lottery bonds under ORS 286.560 to 286.580 *[and 348.716]* shall:

(a) State the purposes for which the proceeds of lottery bonds may be spent;

(b) Contain findings that those uses are lawful uses of lottery revenues;

(c) Indicate the amount of lottery bonds that may be issued under the legislation;

(d) Specify the fund into which the net proceeds of those lottery bonds shall be deposited; and

(e) Provide for the payment of the bond-related costs for the lottery bonds.

(2) Unless specifically prohibited by the legislation authorizing lottery bonds:

(a) Any agency or other entity holding net proceeds of lottery bonds shall, upon the written request of the Director of the Oregon Department of Administrative Services, transfer to the Oregon Department of Administrative Services for deposit in the Lottery Bond Administrative Fund the amounts that the director states in the request are reasonably required to pay for bond-related costs that are allocable to those net proceeds.

(b) The agencies or other entities receiving proceeds of lottery bonds shall, if so directed by the Oregon Department of Administrative Services, take any action specified by the Oregon Department of Administrative Services that is necessary to maintain the excludability of lottery bond interest from gross income under the Internal Revenue Code.

**SECTION 38.** ORS 286.580 is amended to read:

286.580. (1) *[In accordance with any applicable provisions of ORS chapters 286 and 288 and ORS 286.560 to 286.580 and 348.716,]* The State Treasurer, *[with the concurrence]* **at the request** of the Director of the Oregon Department of Administrative Services, may issue lottery bonds from time to time to finance any lottery bond program and to pay costs of issuing lottery bonds and administering the lottery bond program, and the State Treasury may be paid for all bond-related costs the State Treasury incurs.

(2) Lottery bond proceeds and unobligated net lottery proceeds may be used to pay bond-related costs.

(3) In addition to lottery bonds for any lottery bond program, the State Treasurer may, at the request of the affected agency or the Oregon Department of Administrative Services, issue one or more series of refunding lottery bonds. The refunding lottery bonds shall be structured so that the amount required to pay those bonds in each year does not exceed the amount of unobligated net lottery proceeds that could have been committed to pay the lottery bonds that are refunded. Refunding lottery bonds shall be issued in such amount as the State Treasurer determines is necessary or appropriate in order to:

(a) Pay or defease the principal of and the interest and redemption premium, if any, on the bonds to be refunded; and

(b) Pay any bond-related costs related to the refunding lottery bonds.

(4) All lottery bonds issued under this section shall be payable from:

(a) The amount pledged for payment under subsection (7) of this section; and

(b) Any appropriated funds.

(5) The lottery bonds shall not be general obligations of this state and shall not be secured by or payable from any funds or assets of this state other than the amounts pledged for payment or security and any appropriated funds. The Legislative Assembly shall not be under any legal compulsion or obligation to provide any appropriated funds and shall not be liable to any party for any failure to provide appropriated funds. All lottery bonds issued under ORS 286.560 to 286.580 *[and 348.716]* shall contain a statement that this state is not obligated to pay lottery bond principal, interest or premium thereon from any source other than the amounts pledged for payment and any appropriated funds, and that the full faith and credit or the taxing power of the State of Oregon are not pledged to the payment of lottery bond principal, interest or premium.

(6) The State Treasurer may establish reserves for lottery bonds. The reserves may be in the form of cash, investments, surety bonds, municipal bond insurance, lines of credit, letters of credit or other similar instruments. The State Treasurer, on behalf of the State of Oregon, may covenant to maintain the reserves at particular levels, but solely from the amounts that may be pledged to pay lottery bonds under subsection (7) of this section. If the reserves are drawn down below the level that this state has covenanted to maintain, the Director of the Oregon Department of Administrative Services shall promptly certify to the Legislative Assembly or, if the Legislative Assembly is not then in session, to the Emergency Board, the amount needed to restore the reserves to their required level. The Legislative Assembly or the Emergency Board may provide appropriated funds in the amount certified by the Director of the Oregon Department of Administrative Services. Any appropriated funds so provided shall be used immediately to restore the balance in the reserves established for the lottery bonds. The State of Oregon may enter into covenants with the owners of the lottery bonds that specify the timing and content of the director's certification. By enacting this subsection, the Legislative Assembly acknowledges its current intention to provide appropriated funds in the amount certified by the director under this subsection. However, the Legislative Assembly or the Emergency Board shall not have any legal obligation to provide any appropriated funds.

(7) Notwithstanding any other provision of law, the State Treasurer may pledge all or any portion of the unobligated net lottery proceeds, amounts in the Lottery Bond Fund and any unexpended lottery bond proceeds to pay lottery bonds and to pay amounts due in connection with any credit enhancement or any instrument authorized by subsection (6) of this section. The lien of such pledge shall be valid and binding immediately upon delivery by the state of the lottery bonds, credit enhancement agreement or instrument secured by the pledge. The amounts so pledged shall be immediately subject to the lien of the pledge upon receipt of the amounts by this state regardless of when or whether they are allocated or transferred to the Lottery Bond Fund or the Lottery Bond Administrative Fund and regardless of whether there was physical delivery, filing or other act. Except to the extent provided in the pledge, the lien of the pledge shall be superior to all other claims, liens and appropriations of any kind. The State Treasurer may provide that lottery bonds may be issued in different series and that each series may be secured by a lien on, and pledge of, the unobligated net lottery proceeds that is superior to, subordinate to, or on a parity with, the lien of the pledge securing other series of lottery bonds. Nothing in this section shall be construed to limit the powers granted in any other part of ORS 286.560 to 286.580 [and 348.716].

(8) Any covenants made under this section for the benefit of owners of lottery bonds shall constitute contracts between the State of Oregon and the owners of lottery bonds. The State Treasurer, or the Director of the Oregon Department of Administrative Services with the consent of the State Treasurer, may, on behalf of the State of Oregon and in addition to the covenants authorized by subsection (6) of this section, make the following covenants for the benefit of the owners of lottery bonds and any providers of credit enhancement or instruments authorized by subsection (6) of this section:

(a) Except as permitted by a pledge made under subsection (7) of this section, this state shall not create any lien or encumbrance on the unobligated net lottery proceeds that is superior to the liens of the pledges authorized by subsection (7) of this section.

(b) Subject only to the availability of unobligated net lottery proceeds, the State of Oregon shall budget and appropriate in each fiscal year an amount of unobligated net lottery proceeds that, when added to other funds lawfully budgeted and appropriated and available for the purpose, will be sufficient:

(A) To pay in full the principal, interest and premium due and to become due on all outstanding lottery bonds in the fiscal year;

(B) To maintain the required balance in any reserves established for lottery bonds; and

(C) To pay amounts due to the providers of credit enhancement for lottery bonds or instruments authorized by subsection (6) of this section.

(c) This state shall apply the unobligated net lottery proceeds and any other amounts so budgeted and appropriated for those purposes.

(d) This state shall continue to operate the Oregon State Lottery until all lottery bonds are paid or defeased.

(9) In connection with the issuance of any lottery bonds, the State Treasurer may establish such accounts and subaccounts within the Lottery Bond Fund that the State Treasurer determines are necessary or appropriate. In addition, the State Treasurer or the Director of the Oregon Department of Administrative Services may, on behalf of this state, enter into any agreements that the State Treasurer determines are necessary or appropriate to issue lottery bonds and carry out the provisions of ORS 286.560 to 286.580 [and 348.716] and all legislation authorizing lottery bond programs.

(10) If the State Treasurer determines that the acquisition is cost-effective, the State Treasurer may acquire a municipal bond insurance policy, letter of credit, line of credit, surety bond or other credit enhancement device for lottery bonds, and may enter into any related agreements.

(11) The State Treasurer may provide that all or any portion of the Lottery Bond Fund, the Lottery Bond Administrative Fund or any accounts in either fund shall be held by a trustee, may enter into agreements with the trustee regarding the use and application of the amounts held in those funds and accounts and may transfer amounts credited to those funds and accounts to the trustee.

**SECTION 39.** ORS 286.585 is amended to read:

286.585. (1) Pursuant to ORS 286.560 to 286.580 [and 348.716] and subject to future legislative approval, lottery bonds may be issued to make grants or loans to Oregon cities to fund projects for the reconstruction, renovation or development of community sports facilities in order to make the facilities suitable for use by a major league baseball team if a city is selected as an expansion site by major league baseball or if a major league baseball team agrees to relocate to a city.

(2) The use of lottery bond proceeds is authorized based on the following findings:

(a) The financial assistance to cities will assist in the construction, improvement and expansion of infrastructure and community facilities that comprise the physical foundation for commercial activity and provide the basic framework for continued and expanded economic opportunities and quality communities throughout Oregon.

(b) Such financial assistance to cities will therefore promote economic development within this state, and thus the use of net proceeds derived from the operation of the Oregon State Lottery to pay debt service on lottery bonds issued under this section to provide such financial assistance to cities is an appropriate use of state lottery funds under section 4, Article XV of the Oregon Constitution, and ORS 461.510.

(3) Lottery bonds issued pursuant to this section shall be issued only at the request of the Director of the Economic and Community Development Department.

(4) The net proceeds of lottery bonds issued pursuant to this section shall be deposited in the Economic Infrastructure Project Fund established by ORS 285B.551. The Director of the Economic and Community Development Department shall allocate the moneys deposited in the Economic Infrastructure Project Fund for the purpose described in this section in accordance with the policies developed by the Oregon Economic and Community Development Commission in accordance with ORS 285A.045.

(5) The proceeds of lottery bonds issued pursuant to this section shall be used only for the purposes set forth in this section and for bond-related costs.

#### **(State Bond Guarantee Intercept Program)**

**SECTION 40.** ORS 328.346 is amended to read:

328.346. (1)(a) If one or more payments on school bonds are made by the State Treasurer as provided in ORS 328.341, the State Treasurer shall pursue recovery from the school district of all moneys necessary to reimburse the state for all amounts paid by the treasurer to the paying agent, as well as interest, penalties and any additional costs incurred by the treasurer as described in this section. In seeking recovery, the State Treasurer may:

(A) Intercept any payments from the General Fund, the State School Fund, the income of the Common School Fund and any other source of operating moneys provided by **or through** the state to the school district that issued the school bonds that would otherwise be paid to the school district by the state; and

(B) Apply any intercepted payments to reimburse the state for payments made pursuant to the state guaranty until all obligations of the school district to the state arising from those payments, including interest and penalties, and any additional costs incurred by the treasurer as described in this section are paid in full.

(b) The state has no obligation to the school district or to any person or entity to replace any moneys intercepted under authority of this section.

**(c) The authority of the State Treasurer to intercept payments under this subsection has priority over all claims against money provided by the state to a school district, including a claim that is based on a funds diversion agreement under ORS 238.698. A funds diversion agreement under ORS 238.698 has priority over all other claims against money provided by the state to a school district.**

(2) The school district that issued school bonds for which the state has made all or part of a debt service payment shall:

(a) Reimburse all moneys drawn or paid by the State Treasurer on its behalf;

(b) Pay interest to the state on all moneys paid by the state from the date the moneys were drawn to the date they are repaid at a rate to be determined by the State Treasurer, in the State Treasurer's discretion, to be sufficient to cover the costs of funds to the state plus the costs of administration of the state guaranty obligation and of collection of reimbursement; and

(c) Pay any applicable penalties as described in subsection (3) of this section.

(3)(a) The State Treasurer shall establish the reimbursement interest rate after considering the circumstances of any prior draws by the school district on the state, market interest and penalty rates and the cost of funds, if any, that were required to be used or borrowed by the state to make payment on the school bonds. The State Treasurer shall have authority to establish, by negotiations with the school district or otherwise, any plan of reimbursement by the school district that will result in full and complete reimbursement to the state. Subject to the requirement for full and complete reimbursement, the State Treasurer may consider incorporating into the reimbursement plan the means and methods to allow the school district to continue its operations during the time the reimbursement plan is in effect.

(b) The State Treasurer may, after considering the circumstances giving rise to the failure of the school district to make payment on its school bonds in a timely manner, impose on the school district a penalty of not more than five percent of the amount paid by the state pursuant to the state guaranty for each instance in which a payment by the state is made.

(4)(a) If the State Treasurer determines that amounts obtained under this section will not reimburse the state in full within the time determined by the State Treasurer or incorporated in the reimbursement plan from the state's payment of a school district's debt service payment, the State Treasurer shall pursue any legal action, including but not limited to mandamus, against the school district or school district board to compel the school district to:

(A) Levy and provide property tax revenues to pay debt service on its school bonds and other obligations when due; and

(B) Meet its repayment obligations to the state.

(b) With respect to any school bonds for which the State Treasurer has made payment under the state guaranty, and in addition to any other rights or remedies available at law or in equity, the state shall have the same substantive and procedural rights as would a holder of the school bonds of a school district.

(c) The Attorney General shall assist the State Treasurer in the discharge of the duties under this section.

(d) The school district shall pay the attorney fees, expenses and costs of the State Treasurer and the Attorney General.

(5)(a) Except as provided in paragraph (c) of this subsection, any school district whose funds were intercepted under this section may replace those funds from other school district moneys or from ad valorem property taxes, subject to the limitations provided in this subsection.

(b) A school district may use ad valorem property taxes or other moneys to replace intercepted funds only if the ad valorem property taxes or other moneys were derived from:

(A) Taxes originally levied to make the payment, but which were not timely received by the school district;

(B) Taxes from a special levy imposed to make up the missed payment or to replace the intercepted moneys;

(C) Moneys transferred from any lawfully available funds of the school district or the undistributed reserves, if any, of the school district; or

(D) Any other source of moneys on hand and legally available.

(c) Notwithstanding paragraphs (a) and (b) of this subsection, a school district may not replace operating funds intercepted by the state with moneys collected and held to make payments on school bonds if that replacement would divert moneys from the payment of future debt service on the school bonds and increase the risk that the state guaranty would be called upon a second time.

## LOCAL BONDS

**SECTION 41.** Sections 42 to 59 and 64 to 70 of this 2007 Act are added to and made a part of ORS chapter 287.

### (Definitions)

**SECTION 42.** As used in this chapter:

(1) "Advance refunding bond" means a bond all or part of the proceeds of which are to be used to pay an outstanding bond one year or more after the advance refunding bond is issued.

(2) "Agreement for exchange of interest rates" means a contract, or an option or forward commitment to enter into a contract, for an exchange of interest rates for related bonds that provides for:

(a) Payments based on levels or changes in interest rates; or

(b) Provisions to hedge payment, rate, spread or similar exposure including, but not limited to, an interest rate floor or cap or an option, put or call.

(3) "Bond":

(a) Means a contractual undertaking or instrument of a public body to repay borrowed moneys.

(b) Does not mean a credit enhancement device.

(4) "Capital construction" has the meaning given that term in ORS 310.140.

(5) "Capital improvements" has the meaning given that term in ORS 310.140.

(6) "Credit enhancement device":

(a) Means a letter of credit, line of credit, standby bond purchase agreement, bond insurance policy, reserve surety bond or other device or facility used to enhance the creditworthiness, liquidity or marketability of bonds or agreements for exchange of interest rates.

(b) Does not mean a bond.

(7) "Current refunding bond" means a bond the proceeds of which are to be used to pay an outstanding bond less than one year after the current refunding bond is issued.

(8) "Forward current refunding" means execution and delivery of a purchase agreement or similar instrument under which a public body contracts to sell current refunding bonds for delivery at a future date that is one year or more after execution of the purchase agreement or similar instrument.

(9) "General obligation bond" means exempt bonded indebtedness, as defined in ORS 310.140, that is secured by a commitment to levy ad valorem taxes outside the limits of sections 11 and 11b, Article XI of the Oregon Constitution.

(10) "Lawfully available funds" means revenues or other moneys of a public body including, but not limited to, moneys credited to the general fund of the public body, revenues from an ad valorem tax and revenues derived from other taxes levied by the public body that are not dedicated, restricted or obligated by law or contract to an inconsistent expenditure or use.

(11) "Operative document" means a bond declaration, trust agreement, indenture, security agreement or other document in which a public body pledges revenue or property as security for a bond.

(12) "Pledge" means:

(a) To create a lien on property pursuant to section 50 of this 2007 Act.

(b) A lien created on property pursuant to section 50 of this 2007 Act.

(13) "Public body" means:

(a) A county of this state;

(b) A city of this state;

- (c) A local service district as defined in ORS 174.116 (2);
- (d) A special government body as defined in ORS 174.117;
- (e) Oregon Health and Science University; or
- (f) Any other political subdivision of this state that is authorized by the Legislative Assembly to issue bonds.

(14) "Refunding bond" means an advance refunding bond, a current refunding bond or a forward current refunding bond.

(15) "Related bond" means a bond for which the public body enters into an agreement for exchange of interest rates or obtains a credit enhancement device.

(16) "Revenue" means all fees, tolls, excise taxes, assessments, property taxes and other taxes, rates, charges, rentals and other income or receipts derived by a public body or to which a public body is entitled.

(17) "Revenue bond" means a bond that is not a general obligation bond.

(18) "Termination payment" means the amount payable under an agreement for exchange of interest rates by one party to another party as a result of the termination, in whole or part, of the agreement prior to the expiration of the stated term.

(City General Obligation Bond Authority)

**SECTION 43.** (1) A city may issue general obligation bonds to finance capital construction or capital improvements upon approval of the electors of the city.

(2) Unless the city charter provides a lesser limitation, a city may not issue or have outstanding at the time of issuance general obligation bonds in a principal amount that exceeds three percent of the real market value of the taxable property within its boundaries, calculated as provided in ORS 308.207.

(3) The limitation described in subsection (2) of this section does not apply to general obligation bonds issued to finance the costs of local improvements assessed and paid for in installments under statutory or charter authority or to finance capital construction or capital improvements for:

- (a) Water supply, treatment or distribution;
- (b) Sanitary or storm sewage collection or treatment;
- (c) Hospitals or infirmaries;
- (d) Gas, power or lighting; or
- (e) Off-street motor vehicle parking facilities.

(County General Obligation Bond Authority)

**SECTION 44.** (1) Unless the county charter expressly provides otherwise, a county may issue general obligation bonds to finance capital construction or capital improvements upon approval of the electors of the county.

(2) Unless the county charter provides a lesser limitation, a county may not issue or have outstanding at the time of issuance general obligation bonds in a principal amount that exceeds two percent of the real market value of the taxable property in the county, calculated as provided in ORS 308.207.

(County Limitation on Bonded Indebtedness)

**SECTION 45.** (1) A county may incur bonded indebtedness within the meaning of section 10, Article XI of the Oregon Constitution, by issuing revenue bonds when a county is expressly authorized to issue revenue bonds by a law other than this section. The amount of revenue bonds permitted by this section may not exceed the lesser of:

(a) One percent of the real market value of all taxable property in the county, calculated as provided in ORS 308.207; or

(b) A limitation on bonded indebtedness in the county charter.

(2) The limitation on bonded indebtedness in subsection (1) of this section does not apply to revenue bonds issued to finance pension liabilities under ORS 238.692 to 238.698 or any other law in effect prior to enactment of ORS 238.692 to 238.698.

(Public Body Revenue Bond Authority)

**SECTION 46.** (1) In addition to any other authority to issue revenue bonds, a public body may authorize revenue bonds by resolution or nonemergency ordinance pursuant to this section for a public purpose.

(2) If revenue bonds are authorized by nonemergency ordinance, a public body may not sell the revenue bonds pursuant to this section until the period for referral of the ordinance has expired. If electors of a public body refer a nonemergency ordinance authorizing issuance of revenue bonds, the public body may not sell the revenue bonds unless the electors approve issuance of the revenue bonds.

(3) If revenue bonds are authorized by resolution:

(a) A public body may not sell the revenue bonds until at least 60 days following publication of the notice required in subsection (4) of this section.

(b) The resolution must provide that electors residing within the public body may file a petition with the public body asking the public body to refer the question of whether to issue the revenue bonds to a vote. If within 60 days after the publication of the notice described in subsection (4) of this section, electors file petitions with the public body containing valid signatures of at least five percent of the public body's electors, the public body:

(A) Shall place the question of issuing the revenue bonds on the ballot at the next lawfully available election date; and

(B) May not sell the revenue bonds described in the notice unless a majority of the electors voting on the question of issuing the revenue bonds approve.

(4) A public body authorizing revenue bonds by resolution shall publish a notice describing the purposes for which the revenue bonds will be sold in at least one newspaper of general circulation within the boundaries of the public body in the same manner as other public notices of the public body. At a minimum, the notice must contain:

(a) The date the resolution was adopted and the number thereof, if any;

(b) The expected source of revenue for repayment of the revenue bonds;

(c) The estimated principal amount of the revenue bonds to be sold;

(d) The procedures by which electors may cause the question of issuing the revenue bonds to be referred to a vote;

(e) The period within which electors must file signed petitions to cause referral; and

(f) The fact that the resolution is available for inspection at the appropriate office of the public body.

(5) If revenue bonds are authorized by nonemergency ordinance under subsection (2) of this section, the revenue bonds may be secured by the revenues or other property of the public body that is described in the nonemergency ordinance. If revenue bonds are authorized by resolution under subsection (3) of this section, the revenue bonds may be secured by the revenues or other property of the public body that is described in the notice required under subsection (4) of this section.

(6) A public body may issue refunding bonds under sections 54 to 59 of this 2007 Act to pay revenue bonds that were authorized by this section. The procedures and limitations of subsections (1) to (5) of this section do not apply to refunding bonds.

**SECTION 47.** (1) In addition to any other authority to issue revenue bonds, but subject to applicable limitations imposed by the Oregon Constitution or the charter or ordinance of the public body, a public body may issue revenue bonds pursuant to this section:

(a) In anticipation of tax revenues or other moneys;

(b) To provide interim financing for capital projects to be undertaken by the public body;  
or

(c) To refund revenue bonds issued pursuant to this section.

(2) To secure revenue bonds authorized under this section, a public body may:

(a) Pledge all or part of the revenues of the public body that may lawfully be used to secure payment of the revenue bonds.

(b) Obtain credit enhancement devices for the revenue bonds authorized by this section.

(c) Establish debt service reserves.

(d) Enter into covenants, by ordinance, resolution or agreement, for the protection and security of the owners of revenue bonds authorized by this section. The covenants constitute enforceable contracts with the owners of the revenue bonds.

(3) Revenue bonds authorized by this section that are issued in anticipation of revenues and revenue bonds issued under subsection (1)(c) of this section:

(a) Must mature within 13 months after they are issued; and

(b) May not be issued in a principal amount that exceeds 80 percent of the taxes or other revenues, except grant moneys, that the public body has budgeted or otherwise reasonably expects to have available to pay the revenue bonds.

(4) Revenue bonds authorized by this section that are issued in anticipation of grant moneys or to provide interim financing for capital projects and revenue bonds issued under subsection (1)(c) of this section must mature not later than five years after the revenue bonds are issued.

(5) The debt limitations imposed by law or the charter of a public body do not apply to revenue bonds or credit enhancement devices authorized by this section.

**(Public Body Bond Administration)**

**SECTION 48.** (1) Notwithstanding a limitation in a local charter, when a public body is authorized by law to issue bonds, the public body may:

(a) Combine bonds authorized by different laws or actions of the governing body into a single issue and use a single disclosure document if the bonds in the issue will have the same security, or may use a single disclosure document for bonds authorized by different laws or actions of the governing body if the bonds have different security.

(b) Structure, market and issue bonds in the manner that the public body determines is in the best interest of the people served by the public body.

(c) Sell bonds at a competitive sale or a negotiated sale or in any other manner determined by the public body.

(d) Issue bonds the interest on which is exempt from federal income taxes or is not exempt from federal income taxes.

(e) Establish the maturity dates for bonds to provide for short-term, interim or long-term borrowing and establish the principal amounts, redemption provisions, optional or mandatory tender provisions, interest rates or method for determining a variable or adjustable interest rate, denominations and other terms and conditions of the bonds.

(f) Determine the form and content of bond disclosure documents.

(g) Enter into an agreement with and retain the services of bond counsel and other providers of bond-related services.

(h) Execute and deliver indentures, bond purchase agreements, trust agreements, remarketing agreements, auction agent agreements, broker dealer agreements, tender agent

agreements, escrow agreements and other contracts related to the sale, issuance, security for or administration of the bonds.

(i) Enter into agreements with bond trustees and deposit moneys with trustees for the benefit of bond owners and the providers of credit enhancement devices for bonds.

(j) Enter into covenants for the benefit of bond owners or the providers of credit enhancement devices or agreements for exchange of interest rates, including but not limited to covenants regarding the issuance of additional bonds and rate covenants.

(k) Enter into covenants for the benefit of owners of bonds that are intended to allow bonds to bear interest that is excludable from gross income under the federal Internal Revenue Code or that is otherwise exempt from taxation by the United States.

(L) Take action to comply with covenants.

(m) Establish bond debt service reserves.

(n) Fund debt service reserves out of bond proceeds or from other revenues.

(o) Specify the individuals who may sign the bonds on behalf of the public body.

(2) When the Oregon Constitution, a charter, a statute, an ordinance or a resolution authorizes a public body to spend bond proceeds for a particular purpose, the public body may also spend bond proceeds to finance costs of issuing, administering and repaying the bonds, including costs of the services of bond counsel or other providers of bond-related services, and to pay the costs of a credit enhancement device or agreement for exchange of interest rates.

(3) When a public body redeems bonds, the public body shall give notice of redemption in the manner specified in the documents authorizing the bonds to be redeemed.

**SECTION 49.** A public body may delegate to an elected or appointed official or an employee of the public body the authority to take an action described in section 48 (1) of this 2007 Act.

**SECTION 50.** (1) As used in this section and section 50a of this 2007 Act:

(a) "Obligation" means:

(A) A bond;

(B) The commitment of a public body in connection with a credit enhancement device;

or

(C) An agreement for exchange of interest rates.

(b) "Property" means:

(A) Real or personal property, tangible or intangible, whether owned when a pledge is made or acquired subsequently to the time the pledge is made; and

(B) Revenues, contract rights, receivables or securities.

(2) The Uniform Commercial Code does not apply to the creation, perfection, priority or enforcement of a lien of a pledge made by a public body.

(3) When otherwise authorized by statute, charter, ordinance or resolution to issue bonds, a public body may pledge as security for payment of obligations all or part of the property of the public body expressly authorized to be pledged by the governing body of the public body.

(4) The lien created by a pledge is valid and binding from the time the pledge is made. Pledged property is subject immediately to the lien of the pledge without physical delivery, filing or any other act.

(5) Except as otherwise expressly provided in an operative document, the lien of the pledge is superior to and has priority over all other claims and liens.

(6) When property subject to a pledge is acquired by a public body after the pledge is made:

(a) The property is subject to the lien upon acquisition by the public body without physical delivery, filing or any other act.

(b) The lien relates to the time the pledge was originally made.

(7) A public body may reserve a right to pledge a pledged property as security for bonds subsequently issued by the public body. If the public body reserves the right, subject to the terms of the operative document that created a previous pledge, the lien of the subsequent pledge may be on a parity or pari passu basis with the lien of the previous pledge, on a prior and superior basis with the lien of the previous pledge or on a subordinate basis with the lien of the previous pledge, as specified in the operative document creating the subsequent pledge. The lien of the subsequent pledge:

(a) Has the priority specified in the operative document creating the subsequent pledge; and

(b) Is superior to and has priority over all other claims and liens except the lien of a pledge with which the lien of the subsequent pledge is on a parity or subordinate basis, as specified in the operative document.

(8) A pledgee may commence an action in a court of competent jurisdiction to foreclose the lien of the pledge and exercise rights and remedies available to the pledgee under the operative document.

(9) When pledged property consists of moneys or property that is in a fund for debt service reserves or payments, a pledgee may foreclose the lien of the pledge by applying the moneys or property in the fund to the payment of the bonds subject to the terms, conditions and limitations in the operative document.

**SECTION 50a.** (1) A public body may pledge its full faith and credit and taxing power when the public body issues:

(a) A general obligation bond; or

(b) An obligation that is secured by all lawfully available funds of the public body.

(2) When a public body pledges its full faith and credit and taxing power to pay an obligation, the pledge constitutes an enforceable promise or contract by the public body:

(a) To pay the obligation out of lawfully available funds of the public body; and

(b) If lawfully available funds are insufficient to pay when due the amounts owing on the obligation, to levy, impose and collect a tax that is within the authority of the public body to levy, impose and collect in an amount sufficient to pay the amounts owing under the obligation, including past due amounts and penalties.

(3) If a public body fails to pay when due an amount owing under an obligation secured by a pledge of the full faith and credit and taxing power of the public body, the owner of the obligation, or the trustee appointed to act on behalf of the owner, may bring an action in the circuit court of the county in which the principal offices of the public body are located to compel the public body:

(a) To appropriate and expend sufficient lawfully available funds to pay the amounts owing on the obligation; or

(b) If lawfully available funds are insufficient to pay when due the amounts owing on the obligation, to levy, impose and collect a tax that is within the authority of the public body to levy, impose and collect in an amount sufficient to pay the amounts owing under the obligation, including past due amounts and penalties.

(4) An owner of the obligation, or a trustee appointed to act on behalf of the owner, may initiate a proceeding to impose remedial sanctions under ORS 33.055 against members of the governing body of a public body for failure to comply with an order of the court under this section.

(5) A pledge of the full faith and credit and taxing power authorized by this section does not, by itself, create a lien on the revenues or property of the public body.

**SECTION 51.** (1) The Legislative Assembly finds that:

(a) It is a matter of statewide concern that certain covenants made by public bodies regarding a pledge of revenues to secure bonds not be impaired by subsequent initiative or referendum measures.

(b) The covenants described in paragraph (a) of this subsection usually are in the form of a promise to charge and collect rates, fees, tolls, rentals or other charges sufficient to produce moneys to maintain a specified level of debt service coverage.

(c) The possibility that the covenants described in paragraph (a) of this subsection might be rolled back, frozen or otherwise subjected to subsequently imposed conditions or restrictions negatively affects the ability of public bodies to market their bonds, to obtain credit enhancement and to obtain satisfactory ratings on their bonds.

(2) Therefore, the Legislative Assembly declares that covenants are material to the security for bonds and to investors' expectations regarding timely payment of the bonds.

(3) An elector-approved initiative or referendum measure that purports to change ordinances or resolutions affecting rates, fees, tolls, rentals or other charges has no force or effect if giving force and effect to the change would impair existing covenants made with existing bond owners.

(4) A public body may enter into rate covenants that obligate the public body to periodically set rates and charges:

(a) That generate pledged revenues at specific levels including, but not limited to, a specific monetary charge for each unit of commodity or service provided or a schedule of rates and charges that includes fixed and variable components;

(b) At levels sufficient to maintain underlying credit ratings assigned to bonds by one or more nationally recognized credit rating services without regard to improvement in credit ratings due to the additional security provided for the bonds by a credit enhancement device;

(c) That generate pledged revenues each year in amounts at least equal to operations and maintenance expenses of the system that produces the pledged revenues, plus debt service on revenue bonds and other borrowings, plus an additional amount that is reasonably required to obtain favorable terms for the revenue bonds and other borrowings; or

(d) In accordance with a formula established in the operative document governing revenue bonds or other borrowings. The formula may provide for rates and charges to be determined by reference to factors including, but not limited to:

(A) Historical operating expenses;

(B) Projected future operating expenses;

(C) The funding of depreciation;

(D) The costs of capital improvements;

(E) The costs of complying with contractual obligations and covenants;

(F) The costs of complying with regulatory requirements;

(G) Reports of independent consultants regarding the level of pledged revenues required to operate and maintain a utility in accordance with prudent utility practice;

(H) Debt service on the revenue bonds or other borrowings bonds; and

(I) The moneys needed to establish or maintain reserves required by law or contract and the moneys needed to maintain an unencumbered carryforward fund balance or working capital to meet unanticipated expenses or fluctuations in revenues that may arise.

(5) Without regard to the date of execution of a rate covenant, a rate covenant authorized by this section is a contract that binds the public body and is enforceable against the public body in accordance with the terms of the rate covenant.

(Credit Enhancement)

**SECTION 52.** (1) A public body may obtain a credit enhancement device and enter into related agreements.

(2) The public body may pay the provider of the credit enhancement device from the same sources that the public body may lawfully use to pay the related bonds or from any other legally available source.

(3) The public body may issue a bond to the provider of a credit enhancement device to secure the obligations of the public body or to pay amounts due to the provider.

**(Agreements for Exchange of Interest Rates)**

**SECTION 53.** (1) As used in this section, “counterparty” means an entity with whom a public body enters into an agreement for exchange of interest rates.

(2) Upon a finding by a public body that an agreement for exchange of interest rates benefits the public body, the public body may enter into the agreement for exchange of interest rates with a counterparty. An agreement for exchange of interest rates may be made to manage payment, interest rate, spread or similar exposure undertaken in connection with related bonds that:

- (a) Exist when the agreement for exchange of interest rates is executed;
- (b) Are reasonably expected to be executed when regularly scheduled payments are due from the issuer under the agreement; or
- (c) Are identified after the agreement for exchange of interest rates is executed and substituted for related bonds described in paragraph (a) or (b) of this subsection as a result of prepayment, refunding, conversion, ratings changes, redemption, defeasance or other similar event.

(3) Upon entering into an agreement for exchange of interest rates under this section and continuing until the agreement is satisfied, terminated or otherwise no longer in effect, provided a payment default has not occurred, the public body may treat the amount or rate of interest on the related bond as the amount or rate of interest payable after giving effect to the agreement for exchange of interest rates for the purpose of calculating:

- (a) Tax levies to pay regularly scheduled bond debt service; and
  - (b) Other amounts that are based on the rate of interest of the bond.
- (4) Subject to covenants applicable to a related bond and the limitations of this section, payments required under an agreement for exchange of interest rates may:
- (a) Be treated as interest payments on the related bond;
  - (b) Be made from revenues or other moneys contributed to or legally available to pay the related bond; and
  - (c) Rank in an order of priority of payment relative to the payment of the related bond as the public body determines.

(5) In connection with entering into an agreement for exchange of interest rates, a public body may obtain a credit enhancement device to secure the agreement for exchange of interest rates.

- (6) An agreement for exchange of interest rates entered into under this section:
- (a) Is not a debt or other obligation of the issuer for purposes of any limitation upon the indebtedness of the issuer.
  - (b) Is subject only to the limitations of this section and is not subject to other limitations applicable to the related borrowing.

(7) A termination payment required to be paid by the public body under an agreement for exchange of interest rates may not be paid from ad valorem property taxes levied outside the limitations of section 11 or 11b, Article XI of the Oregon Constitution.

(8) The Oregon Municipal Debt Advisory Commission shall adopt administrative rules establishing required terms, conditions, annual or periodic reporting requirements and other requirements for an agreement for exchange of interest rates entered into by a public body, if the commission determines those requirements are desirable to protect the interests of the public body.

(9) A public body may create reserves to pay amounts due under agreements for exchange of interest rates and fund the reserves with moneys derived from the issuance and sale of bonds or from revenues or other moneys described in subsection (4)(b) of this section.

**(Refunding Bonds)**

**SECTION 54.** (1) In addition to any other authority to issue refunding bonds, a public body may issue current refunding bonds to refund its outstanding bonds pursuant to this section.

(2) A public body may secure current refunding bonds with any of the revenues and covenants that the public body could have used to secure the refunded bonds and with revenues and covenants authorized by law when the refunding bonds are issued.

(3) A public body may issue:

(a) General obligation bonds to refund outstanding general obligation bonds without obtaining approval of the electors of the public body.

(b) Revenue bonds to refund revenue bonds that were issued in accordance with section 46 of this 2007 Act without complying with the procedures prescribed in section 46 of this 2007 Act.

(c) General obligation bonds as current refunding bonds with a maturity date not more than 30 days after the maturity date of the elector-approved general obligation bonds to be refunded or the latest maturity date permitted in the elector-approved measure authorizing the refunded bonds, whichever is later. If the total debt service on the current refunding general obligation bonds does not exceed the total debt service on the general obligation bonds to be refunded, the amounts maturing on a given date may be changed, and the current refunding general obligation bonds may mature earlier than the bonds to be refunded.

(4) A public body may not issue current refunding bonds in an amount that, together with amounts on deposit in sinking funds or other moneys pledged to payment of the principal, exceeds the amount that the public body estimates is required to:

(a) Pay the refunded bonds or pay a termination payment with respect to an agreement for exchange of interest rates related to the refunded bonds;

(b) Fund reserves for the current refunding bonds;

(c) Pay costs of issuing the current refunding bonds and obtaining credit enhancement devices; and

(d) Pay other costs related to the current refunding bonds.

**SECTION 55.** (1) The Legislative Assembly declares that the issuance of advance refunding bonds and the authority to effect a forward current refunding are matters of general statewide concern, and sections 54 to 59 of this 2007 Act preempt all local statutory or charter authority to issue advance refunding bonds or to effect a forward current refunding.

(2) A public body may issue advance refunding bonds or enter into forward current refundings in compliance with:

(a) Sections 54 to 59 of this 2007 Act; and

(b) Rules adopted by the State Treasurer.

(3) A public body may secure advance refunding bonds with any of the revenues and covenants that the public body could have used to secure the refunded bonds and with revenues and covenants authorized by law when the refunding bonds are issued.

**SECTION 56.** (1) The State Treasurer shall review the plan of a public body to issue advance refunding bonds or to enter into a forward current refunding to determine whether the plan complies with applicable rules of the State Treasurer, as provided in this section.

(2) After adoption of an ordinance or resolution approving a plan to issue advance refunding bonds or to enter into a forward current refunding, a public body shall submit the refunding plan to the State Treasurer for review and approval.

(3) After review of a proposed refunding plan, the State Treasurer shall advise the public body, in writing, whether the plan is approved. If the State Treasurer does not notify the public body within 30 business days after receipt of the plan, the plan is deemed approved. A public body may issue advance refunding bonds or enter into a forward current refunding in accordance with a refunding plan approved by the State Treasurer.

(4) The State Treasurer may adopt rules to regulate forward current refunding and the issuance of advance refunding bonds.

(5) The State Treasurer may charge public bodies fees and expenses as provided in section 5 of this 2007 Act in connection with the activities of this section.

**SECTION 57.** (1) As used in this section, "government obligations" means:

(a) Direct obligations of the United States of America or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America and bank certificates of deposit secured by the obligations;

(b) Bonds, debentures, notes, certificates of participation or other obligations issued by a federal agency or other instrumentality of the federal government; or

(c) Other debt obligations determined by administrative rule of the State Treasurer to be highly secured and widely accepted in the marketplace as obligations for a defeasance escrow.

(2) A public body may not issue advance refunding bonds in a principal amount in excess of the minimum principal amount that is estimated at the time of sale to be necessary:

(a) To purchase a principal amount of government obligations that is, together with the interest earnings thereon, sufficient to pay the installments of principal, interest and redemption premiums, if any, on the bonds being refunded when due in accordance with the advance refunding plan; and

(b) To pay all costs in connection with issuing the advance refunding bonds and obtaining credit enhancement devices.

(3) If the public body that issues advance refunding bonds receives an amount of proceeds that exceeds the actual amount required under subsection (2) of this section, the public body must use the excess amount of proceeds to pay interest on the advance refunding bonds.

(4) Before applying advance refunding bond proceeds to the purposes for which the refunding bonds have been issued, a public body may invest advance refunding bond proceeds, together with other moneys set aside for the payment of the bonds to be refunded, only in government obligations.

(5) The public body shall make investments pursuant to subsection (4) of this section at times and in a manner required to provide funds sufficient to pay principal, interest and redemption premiums, if any, in accordance with the advance refunding plan.

**NOTE:** Section 58 was deleted by amendment. Subsequent sections were not renumbered.

**SECTION 59.** (1) Pursuant to section 67 of this 2007 Act, a public body shall levy taxes to pay the maturing interest and principal of advance refunding bonds that are general obligation bonds.

(2) Notwithstanding section 67 of this 2007 Act or any other provision of law, a public body may not cause a tax to be levied to pay the maturing interest and principal of general obligation bonds that have been defeased as described in section 64 (2) of this 2007 Act, unless the amounts held to defease the bonds are insufficient.

(Oregon Municipal Debt Advisory Commission)

**SECTION 60.** ORS 287.030 is amended to read:

287.030. (1) *[There is created]* The Oregon Municipal Debt Advisory Commission **is hereby created**, consisting of **the following** seven members<sup>1</sup>, *selected as follows*:

(a) The State Treasurer or *[designate]* **the State Treasurer's designee**.

(b) Three *[local government]* **public body** finance officers<sup>2</sup>, *appointed by the Governor*, *one each among persons*:

(A) **One of whom is an individual** recommended by the Association of Oregon Counties<sup>3</sup>,

(B) **One of whom is an individual** recommended by the League of Oregon Cities<sup>4</sup>,

(C) **One of whom is an individual** recommended by the Oregon School Boards Association.

*[and]*

(c) One representative of special districts appointed by the Governor.

[(c)] (d) Two public members not represented in the other categories of appointment, appointed by the Governor.

(2) The term of office of an appointed member is four years, but appointed members serve at the pleasure of the Governor. [*Before the expiration of the term of an appointed member, the Governor shall appoint a successor to assume the duties of the member on July 1, next following.*] A member is eligible for reappointment for [*not to exceed*] **no more than** one additional term.

(3) **Before the expiration of the term of an appointed member, the Governor shall appoint a successor to assume the duties of the member on July 1 next following.** In case of a vacancy for any cause, the Governor shall make an appointment to become effective immediately for the unexpired term.

[(3)] (4) The Governor shall designate one of the appointed members [*as chairperson*] to serve a **one-year** term [*of one year*] **as chairperson**, subject to reappointment.

[(4)] (5) Appointed members of the commission [*shall be*] **are** entitled to compensation and expenses as provided in ORS 292.495.

**SECTION 61.** ORS 287.032 is amended to read:

287.032. (1) The Oregon Municipal Debt Advisory Commission shall meet:

(a) At the call of the chairperson; or

(b) At the request of:

(A) A majority of the members;

(B) The State Treasurer; or

(C) The Governor.

(2) A majority of all members of the advisory commission constitutes a quorum for the transaction of business.

(3) [*All*] **The office of the State Treasurer shall provide the commission with** administrative and clerical assistance required by the [*advisory*] commission [*shall be furnished by the office of the State Treasurer*].

**SECTION 62.** ORS 287.034 is amended to read:

287.034. (1) The Oregon Municipal Debt Advisory Commission may:

[(1)] (a) Provide assistance and consultation, upon request of the state or [*of local government units*] **a public body**, to assist them in the planning, preparation, marketing and sale of new bond issues to reduce the cost of the issuance to the issuer and to assist in protecting the issuer's credit.

[(2)] (b) Collect, maintain and provide financial, economic and social data on [*local government units*] **public bodies** pertinent to their ability to [*assume and service bonded obligations*] **issue and pay bonds**.

[(3)] (c) Collect, maintain and provide information on bonds sold and outstanding and serve as a clearinghouse for all local bond issues.

[(4)] (d) Maintain contact with municipal bond underwriters, credit rating agencies, investors and others to improve the market for [*local government*] **public body** bond issues.

[(5)] *Prepare, advertise and distribute, upon request of issuers, preliminary official statements required by ORS 287.018 and notices of bond sales required by ORS 287.022.*

[(6)] (e) Undertake or commission studies on methods to reduce the costs of state and local **bond** issues.

[(7)] (f) Recommend changes in state law and local practices to improve the sale and servicing of local bonds.

[(8)] (g) Perform any other function required or authorized by law.

[(9)] (h) Pursuant to ORS chapter 183, adopt rules necessary to carry out its duties.

**(2) The commission shall publish:**

**(a) A periodic newsletter describing proposed bond issues, bond sales, refundings, credit rating changes and other information relating to municipal bonds that is pertinent to issuers, underwriters, investors and the public.**

(b) An annual report describing and evaluating the operations of the commission during the preceding year.

(3) The commission may charge reasonable fees for providing services under subsection (1) of this section.

(4) The commission shall transfer the amounts received under this section to the State Treasurer for deposit in the Miscellaneous Receipts Account in the General Fund for the State Treasurer described in ORS 286.025. The moneys deposited in the account pursuant to this section are continuously appropriated to the State Treasurer for payment of expenses of the State Treasurer in providing services to the commission pursuant to ORS 287.032.

**SECTION 63.** ORS 287.040 is amended to read:

287.040. (1) The Oregon Municipal Debt Advisory Commission [*shall*] **may, by rule,** require a public body to provide the commission with prior notice of proposed issuance of new bonds [*by a public body to be made to the advisory commission in such form and at such times as the advisory commission specifies*] **in a form and at times specified by the commission.**

[*(2) As used in this section:*]

[*(a) "Bonds" means general obligation, revenue or tax increment bonds, certificates of participation, special assessment bonds, limited tax obligations or notes of a public body.*]

[*(b) "Public body" means the governing body or authorized board, commission or person representing any political subdivision or municipal, quasi-municipal or public corporation in this state authorized by law to issue bonds.*]

(2) To assist the commission in carrying out its duties, a public body shall verify, at the request of the commission, the information maintained by the commission or the State Treasurer on the public body's outstanding bonds.

#### (Debt Limit Calculation)

**SECTION 64.** (1) When calculating compliance with a constitutional or statutory debt limit for a public body:

(a) The amount of interest to be paid on bonds, whether paid currently or deferred, is not taken into account.

(b) For a zero coupon bond or other original discount bond on which periodic interest payments are not made, only the accreted value of the bond on the date the bond is issued is taken into account.

(c) If a bond is issued to a provider of a credit enhancement device for a bond that is subject to a debt limit, the bond issued to the provider must be taken into account only to the extent that the amount of the bond issued to the provider exceeds the amount of the bond secured by the credit enhancement device.

(d) A public body may deduct from the amount of outstanding indebtedness:

(A) The amount of money and investments that the public body or a trustee of the public body or a trustee or agent of the public body holds to pay bonds that have not been defeased.

(B) The principal amount of bonds that have been defeased.

(2) For purposes of this section, a bond is defeased if:

(a) The public body has set aside in an irrevocable escrow government obligations, as defined in section 57 of this 2007 Act, the receipts from which have been calculated by a certified public accountant or other experienced professional to be sufficient, without reinvestment, to pay the principal, interest and premium, if any, due on the bond at maturity or on prior redemption; or

(b) The public body has complied with the provisions in the documents authorizing the bond that govern payment or defeasance of the bond.

#### (Taxation)

**SECTION 65.** Interest on bonds of a public body is exempt from personal income tax under ORS chapter 316.

(Remedies for Misspent Proceeds)

**SECTION 66.** (1) If a court of competent jurisdiction determines that the proceeds of an issue of general obligation bonds have been used by a public body for expenditures that are not capital construction or capital improvements, the court may order the public body to:

(a) Replace the misspent proceeds with interest, on a reasonable schedule determined by the court, from moneys other than the tax revenues that the public body levies to pay the debt service; and

(b) Use the replaced moneys for capital construction or capital improvement expenditures or to pay the debt service.

(2) If the public body fails to comply with an order to replace the misspent proceeds or acknowledges that the public body is unable to replace the misspent proceeds, the court may determine that a portion of the future levies to pay the debt service is subject to the limits of sections 11 and 11b, Article XI of the Oregon Constitution, by calculating the amount of the tax revenues that are necessary to pay the principal and interest on the bonds that is allocable to the misspent proceeds.

(3) An action may not be filed or maintained against a public body because of an alleged expenditure of the bond proceeds of general obligation bonds for purposes other than capital construction or capital improvements, if the misspent moneys are less than \$5,000.

(Tax Levy Authority)

**SECTION 67.** (1) In addition to other taxes imposed, a public body shall levy annually an ad valorem property tax on the taxable property within the boundaries of the public body in an amount that is sufficient, when added to other amounts available, to pay the principal of and interest on outstanding general obligation bonds issued by the public body.

(2) A public body may:

(a) Use the revenues collected under this section and earnings on the revenues only to pay the principal of and interest on general obligation bonds.

(b) Not use or divert taxes levied under subsection (1) of this section for another purpose while principal or interest remains unpaid on the bonds.

(c) If a surplus amount remains after the principal of and interest on an issue of general obligation bonds have been paid and the public body does not have other expenses related to the bonds, transfer the surplus moneys to a fund designated by the governing body of the public body.

(Authority Conveyed to Public Bodies)

**SECTION 68.** The powers conveyed to public bodies by sections 42 to 59 and 64 to 70 of this 2007 Act are in addition to any other powers possessed by public bodies and do not limit those other powers.

(Public Records)

**SECTION 69.** The records of registered bond ownership, whether maintained by a public body or otherwise, are not public records within the meaning of ORS 192.410 (4).

(Application to Refunding Bonds)

**SECTION 70.** (1) ORS 288.605 to 288.695 (2005 or earlier edition) do not apply to or affect advance refunding bonds issued prior to October 4, 1977.

(2) Sections 54 to 59 of this 2007 Act do not apply to or affect refunding bonds issued prior to the effective date of this 2007 Act.

## MISCELLANEOUS

**SECTION 71.** ORS 190.080 is amended to read:

190.080. (1) An intergovernmental entity created by an intergovernmental agreement under ORS 190.010 may, according to the terms of the agreement:

(a) Issue revenue bonds under ORS [288.805 to 288.945] **chapter 287** or enter into financing agreements authorized under ORS 271.390 to accomplish the public purposes of the parties to the agreement, if after a public hearing the governing body of each of the units of local government that are parties to the agreement approves, by resolution or order, the issuance of the revenue bonds or entering into the financing agreement;

(b) Enter into agreements with vendors, trustees or escrow agents for the installment purchase or lease, with option to purchase, of real or personal property if the period of time allowed for payment under an agreement does not exceed 20 years; and

(c) Adopt all rules necessary to carry out its powers and duties under the intergovernmental agreement.

(2) Except as provided in ORS 190.083, an intergovernmental entity may not levy taxes or issue general obligation bonds.

(3) The debts, liabilities and obligations of an intergovernmental entity shall be, jointly and severally, the debts, liabilities and obligations of the parties to the intergovernmental agreement that created the entity, unless the agreement specifically provides otherwise.

(4) A party to an intergovernmental agreement creating an intergovernmental entity may assume responsibility for specific debts, liabilities or obligations of the intergovernmental entity.

(5) Any moneys collected by or credited to an intergovernmental entity shall not accrue to the benefit of private persons. Upon dissolution of the entity, title to all assets of the intergovernmental entity shall vest in the parties to the intergovernmental agreement. The agreement creating the entity shall provide a procedure for:

(a) The disposition, division and distribution of any assets acquired by the intergovernmental entity; and

(b) The assumption of any outstanding indebtedness or other liabilities of the entity by the parties to the intergovernmental agreement that created the entity.

(6) An intergovernmental entity created by intergovernmental agreement under ORS 190.010 may be terminated at any time by unanimous vote of all the parties to the intergovernmental agreement or as provided by the terms of the agreement.

**SECTION 72.** ORS 190.083 is amended to read:

190.083. (1) Before a county enters into an intergovernmental agreement creating an intergovernmental entity to operate, maintain, repair and modernize transportation facilities, the county shall obtain approval of the terms and conditions of the agreement from the governing bodies of a majority of the cities within the county.

(2) Subject to the provisions of this section, an intergovernmental entity created to operate, maintain, repair and modernize transportation facilities may issue general obligation bonds and assess, levy and collect taxes in support of the purposes of the entity.

(3)(a) To carry out the purposes of an intergovernmental agreement under this section, and when authorized at an election described in paragraph (b) of this subsection, an intergovernmental entity created to operate, maintain, repair and modernize transportation facilities may borrow moneys and sell and dispose of general obligation bonds. Approval requires an affirmative vote of a majority of the electors within the intergovernmental entity voting in the election.

(b) If the bonds are not subject to the limitations under section 11 or 11b, Article XI of the Oregon Constitution:

(A) The proposition submitted to the electors shall provide that the intergovernmental entity shall assess, levy and collect taxes each year on the assessed value of all taxable property within the intergovernmental entity for the purposes of paying the principal and interest on the general obligation bonds;

(B) The election must comply with the voter participation requirements of section 11 (8), Article XI of the Oregon Constitution; and

(C) Outstanding bonds may never exceed in the aggregate two percent of the real market value of all taxable property within the entity.

(4) The governing body of an intergovernmental entity created to operate, maintain, repair and modernize transportation facilities shall issue the bonds from time to time as authorized by the electors of the entity. The governing body shall issue the bonds according to the applicable provisions of ORS [chapters 287 and 288] **chapter 287**.

(5) The electors of an intergovernmental entity created to operate, maintain, repair and modernize transportation facilities may establish a permanent rate limit for ad valorem property taxes for the entity pursuant to section 11 (3)(c), Article XI of the Oregon Constitution.

(6) An intergovernmental entity created to operate, maintain, repair and modernize transportation facilities may exercise the powers necessary to carry out the purposes of the intergovernmental agreement, including but not limited to the authority to enter into agreements and to expend tax proceeds and other revenues the entity receives.

(7) An intergovernmental entity created to operate, maintain, repair and modernize transportation facilities is not a district as defined in ORS 198.010 and is not subject to the provisions of ORS chapter 451.

(8) An intergovernmental entity described in this section is subject to ORS 294.305 to 294.565 for each fiscal year or budget period in which the entity proposes to impose or imposes ad valorem property taxes.

**SECTION 73.** ORS 190.265 is amended to read:

190.265. (1) Pursuant to ORS 190.010, 190.020 and 190.085, counties may establish, by agreement ratified by the governing body of each county as provided in ORS 190.085, an intergovernmental corrections entity for the purposes of:

(a) Making application under ORS 423.525 to provide local correctional facilities including, but not limited to, facilities funded under ORS 423.525, including land, structures, equipment, supplies and personnel necessary to acquire, develop, maintain and operate the local correctional facilities; and

(b) Administering local community corrections programs and services.

(2) An intergovernmental corrections entity consists of the entire combined territories of the counties establishing the entity. Notwithstanding any provision in ORS chapter 190 and subject to the provisions of this section, an intergovernmental corrections entity may issue general obligation bonds and assess, levy and collect taxes in support of the purposes of the entity. An intergovernmental corrections entity is not a district for purposes of ORS chapter 198 and is not subject to ORS chapter 451.

(3) To carry out the purposes for which the entity was established and when authorized at an election properly called for that purpose, an intergovernmental corrections entity may borrow money and sell and dispose of general obligation bonds. Approval or denial of the proposition submitted to the electors of the intergovernmental corrections entity shall be by a majority of the electors voting in the election. The proposition submitted to the electors shall make provision for the assessment, levy and collection each year of taxes on the assessed value of all taxable property within the entity to be applied for the purposes of paying the principal and interest on the general obligation bonds. Outstanding bonds may never exceed in the aggregate two percent of the real market value of all taxable property within the entity.

(4) The bonds shall be issued from time to time by the governing body of the entity on behalf of the entity as authorized by the electors of the entity. The bonds shall be issued in accordance with the applicable provisions of ORS [chapters 287 and 288] **chapter 287**.

(5) An intergovernmental corrections entity may impose operating taxes by establishing a permanent rate limit under section 11 (3)(c), Article XI of the Oregon Constitution, and the laws adopted thereunder. An intergovernmental corrections entity may impose other ad valorem property taxes in the manner provided by law.

(6) Local correctional facilities provided by or furnished to a county under this section shall be considered to be jail accommodations of the county for purposes of ORS 135.215, 137.140 and 137.330.

(7) An intergovernmental corrections entity may exercise any of the powers granted by this section, any of the powers of an intergovernmental entity created under ORS 190.010, 190.020 and 190.085 and any powers necessary to effectuate the purposes for which the entity is formed. These powers include, but are not limited to, the authority to contract or make agreements with third parties, governmental and private, and the authority to expend, consistent with the purposes for which the entity is formed, any tax proceeds, general obligation bond proceeds and other revenues received by the entity. This section and the powers granted by it shall be construed liberally to effectuate its purposes.

**SECTION 74.** ORS 223.235 is amended to read:

223.235. (1) When in any local government a bond lien docket is made up, as provided in ORS 223.230, as to the final assessments for any local improvement, the local government shall by ordinance or resolution of the governing body authorize the issue of its bonds pursuant to the applicable provisions of ORS chapter [288] **287** and in accordance with this section.

(2) The bonds authorized to be issued under this section must be issued in an amount that does not exceed the unpaid balance of all final assessments for the related local improvements, plus the amounts necessary to fund any debt service reserve and to pay any other financing costs associated with the bonds.

(3)(a) If the question of the issuance of the specific bonds has been approved by the electors of the local government and the bonds are issued as general obligation bonds, the local government shall each year assess, levy and collect a tax on all taxable property within its boundaries. The amount of the tax must be sufficient to pay all principal of and interest on the bonds that are due and payable in that year and to replenish any debt service reserves required for the bonds. In computing the amount of taxes to impose, the local government shall:

(A) Deduct from the total amount otherwise required the amount of final installment payments that are pledged to the payment of the bonds and that are due and payable in that year; and

(B) Add to this net amount the amount of reasonably anticipated delinquencies in the payments of the installments or the taxes.

(b) The taxes must be levied in each year and returned to the county officer whose duty it is to extend the tax roll within the time and in the manner provided in ORS 310.060.

(c) The taxes become payable at the same time and are collected by the same officer who collects county taxes and must be turned over to the local government according to law.

(d) The county officer whose duty it is to extend the county levy shall extend the levy of the local government in the same manner as city taxes are extended. Property may be sold for nonpayment of the taxes levied by a local government in like manner and with like effect as in the case of county and state taxes.

*[(4) If the question of the issuance of the specific bonds has not been approved by the electors of the local government, the local government may issue the bonds as limited tax bonds, as defined in ORS 288.150.]*

*[(5)(a)]* **(4)(a)** All bonds issued pursuant to this section, including general obligation bonds, are secured by and payable from the installments of final assessments with respect to which the bonds were issued.

(b) In the ordinance or resolution authorizing the issuance of the bonds, the governing body of the issuing local government may:

(A) Provide that installments of final assessments levied with respect to two or more local improvements shall secure a single issue of bonds.

(B) Reserve the right to pledge, as security for any bonds thereafter issued pursuant to this section, any installments of final assessments previously pledged as security for other bonds issued pursuant to this section.

(c) All bonds must be secured by a lien on the installments of final assessments with respect to which they were issued. The lien is valid, binding and fully perfected from the date of issuance of the bonds. The installments of final assessments are immediately subject to the lien without the physical delivery thereof, the filing of any notice or any further act. The lien is valid, binding and fully perfected against all persons having claims of any kind against the local government or the property assessed whether in tort, contract or otherwise, and irrespective of whether the persons have notice of the lien.

[(6)] **(5)** As additional security for any bonds issued under this section, including general obligation bonds, the governing body of the issuing local government may pledge or mortgage, or grant security interests in, its revenues, assets and properties, and otherwise secure and enter into *[covenant]* **covenants** with respect to the bonds[,] as provided in ORS *[288.155]* **chapter 287**.

[(7)(a)] **(6)(a)** A local government may, from time to time after the undertaking of a local improvement has been authorized, borrow money and issue and sell notes for the purpose of providing interim financing for the actual costs of the local improvement.

(b) Notes authorized under this subsection may be issued in a single series for the purpose of providing interim financing for two or more local improvements.

(c) Notes authorized under this subsection may not mature later than one year after the date upon which the issuing local government expects to issue bonds for the purpose of providing permanent financing with respect to installment payments of the final assessments for the local improvements.

(d) Any notes authorized under this subsection may be refunded from time to time by the issuance of additional notes or out of the proceeds of bonds issued pursuant to this section. The notes may be made payable from the proceeds of any bonds to be issued under this section to provide permanent financing or from any other sources from which the bonds are payable.

(e) The governing body of the issuing local government may pledge to the payment of the notes any revenues that may be pledged to the payment of bonds authorized to be issued under this section with respect to the local improvements for which the notes provide interim financing.

**SECTION 75.** ORS 223.262 is amended to read:

223.262. (1) As used in ORS 223.205 and 223.210 to 223.295:

(a) "Assessment contract" means the obligation to pay final assessments in installments that arise when a property owner submits an application to pay assessments in installments under ORS 223.210 or a similar provision of a local charter.

(b) "Assessment contract rights" includes the right to receive installment payments of final assessments, with interest, made under an assessment contract, and the right to enforce the lien of the final assessment.

(2) Any local government that receives or expects to receive assessment contracts may:

(a) Sell or assign to third parties all or any portion of its assessment contract rights.

(b) Create corporations or other business entities to factor assessment contract rights.

(c) Create grantor trusts and transfer to the trusts assessment contract rights.

(d) Contract to service assessment contracts and assessment liens for the owners of assessment contract rights, or contract with third parties to service assessment contracts and assessment liens for the owners of assessment contract rights.

(e) Serve as a trustee for the owners of assessment contract rights.

(f) Enter into contracts necessary to carry out the provisions of this section.

(3) Any trust created under this section may fractionalize and sell assessment contract rights.

(4) Assessment contract rights, any interests therein and any interests in trusts secured primarily by assessment contract rights shall be exempt from registration under ORS 59.055.

(5) If assessment contract rights that secure outstanding obligations of a local government are sold or assigned under this section, an amount shall be placed irrevocably in escrow that is calculated to be sufficient to pay all principal and interest on the outstanding obligations as they mature or are irrevocably called for prior redemption[, *in accordance with ORS 288.677*]. Any sale proceeds not required to fund the escrow may be placed in the general fund of the local government. If only a portion of the contract rights securing outstanding obligations is sold, then the amount of outstanding obligations that must be defeased pursuant to this subsection shall be that proportion of the principal amount of the outstanding obligations that the principal amount of the contract rights that are sold represents to the total principal amount of the contract rights that secure the outstanding obligations.

**NOTE:** Section 76 was deleted by amendment. Subsequent sections were not renumbered.

**SECTION 77.** ORS 238.692 is amended to read:

238.692. As used in ORS 238.692 to 238.698:

[(1) “Governmental unit” has the meaning given that term in ORS 288.150, and includes an agency created by two or more political subdivisions pursuant to ORS 190.003 to 190.130 or 190.265.]

[(2)] (1) “Pension liability” means:

(a) Monetary obligations of a participating public employer for which the employer is or will be required to transmit amounts to the Public Employees Retirement Board under the provisions of ORS 238.225, including any obligations arising out of an integration contract under ORS 238.680, or any other liability of a [governmental unit] **public body** that is attributable to an obligation to pay pensions or other retirement benefits to officers or employees of the [governmental unit] **public body**, whether active or retired; and

(b) Monetary obligations of a public employer arising out of an integration contract under ORS 238.680 for which the employer is required to transmit amounts to the Public Employees Retirement Board.

(2) “Public body” has the meaning given that term in section 42 of this 2007 Act.

(3) “State agency” means any officer, board, commission, department, division or institution in the administrative branch of state government.

**SECTION 78.** ORS 238.694 is amended to read:

238.694. (1) The Legislative Assembly finds that authorizing issuance of [limited tax bonds or] revenue bonds to finance pension liabilities may reduce the cost of public pensions to taxpayers and that the reduction of those costs to taxpayers is a matter of statewide concern.

(2) Notwithstanding the limitation on indebtedness in [ORS 287.053] **section 45 of this 2007 Act** or any other limitation on indebtedness or borrowing under state or local law, for the purpose of obtaining funds to pay the pension liability of a [governmental unit] **public body**, the governing body of a [governmental unit] **public body** may authorize and cause the issuance of [limited tax bonds as defined in ORS 288.150,] revenue bonds [authorized by charter or pursuant to ORS 288.805 to 288.945, or any combination of those bonds] **under ORS chapter 287.**

(3) The governing body of a [governmental unit] **public body** may pledge the full faith and credit and taxing power of the [governmental unit] **public body** to the payment of the principal and interest on bonds issued under ORS 238.692 to 238.698, and any premium on those bonds.

[(4) Except as otherwise provided in this section, limited tax bonds authorized under this section must be issued in the manner prescribed by the applicable provisions of ORS chapters 287 and 288 for the issuance of limited tax bonds.]

[(5)] (4) Unless the charter of a county provides a lower limit, a county may issue [limited tax] **revenue** bonds to finance pension liabilities in an amount that does not exceed five percent of the real market value of the taxable property within the boundaries of the county.

[(6)] (5) Revenue bonds authorized under this section need not comply with the procedure specified in [ORS 288.815] **section 46 of this 2007 Act.**

[(7)] (6) A [governmental unit] **public body** that issues [limited tax bonds or] revenue bonds under this section may also issue [limited tax bonds or] revenue bonds for the purpose of refunding the bonds.

[8] (7) A [governmental unit] **public body** may enter into indentures or other agreements with trustees or escrow agents for the issuance, administration or payment of bonds authorized under this section.

**SECTION 79.** ORS 238.695 is amended to read:

238.695. (1) [Governmental units] **Public bodies** may enter into intergovernmental agreements for the collective issuance, administration or payment of bonds authorized under ORS 238.694. An agreement for collective issuance, administration or payment of bonds under this subsection may provide for the contribution and pooling of the assets of the [governmental units] **public bodies** as security for the bonds, and may make provisions for such other matters as the [governmental units] **public bodies** determine convenient. Notwithstanding ORS 190.080, any intergovernmental entity created by [governmental units] **public bodies** under this section shall have the power to issue bonds as described in ORS 238.694. The bonds may be issued and sold as parity bonds, issued and sold individually or issued and sold in such combinations or forms as determined to be appropriate by the [governmental units] **public bodies**.

(2) Proceeds of bonds sold under an intergovernmental agreement entered into under this section, and any other funds or assets of a [governmental unit] **public body**, together with interest or earnings on the proceeds, funds and assets, may be consolidated into one or more funds or accounts and may be pledged to the holders of the bonds.

(3) [Governmental units] **Public bodies** may enter into indentures or other agreements with trustees or escrow agents for the issuance, administration or payment of bonds pursuant to an intergovernmental agreement entered into under this section.

(4) The State Treasurer may cooperate with, assist and provide recommendations to [governmental units] **public bodies**, and any intergovernmental entity created by [governmental units] **public bodies** under this section, relating to all matters involved in the issuance, administration and payment of bonds. Any expenses incurred by the State Treasurer in providing assistance to [governmental units] **public bodies** under this section may be paid as an administrative expense of the [governmental unit] **public body** from the proceeds of the bonds issued with the assistance of the State Treasurer.

**SECTION 80.** ORS 238.696 is amended to read:

238.696. (1) A [governmental unit] **public body**, or a group of [governmental units] **public bodies** that enter into an intergovernmental agreement under ORS 238.695, may establish a debt service trust fund for the purpose of paying the principal and interest on bonds issued under ORS 238.692 to 238.698. The trustee of the debt service trust fund shall hold the moneys paid into the trust fund solely for the purpose of paying the principal and interest on bonds issued under ORS 238.692 to 238.698 and for paying the administrative costs of the trust fund.

(2) Moneys held in a debt service trust fund are subject to the limitations on investment imposed by ORS 294.033 and 294.035.

(3) A [governmental unit] **public body**, or a group of [governmental units] **public bodies** that enter into an intergovernmental agreement under ORS 238.695, that has established a debt service trust fund under this section may not divert or pledge any moneys paid into the trust fund for any purpose other than the purpose specified in subsection (1) of this section until the total amount of principal and interest on bonds issued by the [governmental unit] **public body** or under the intergovernmental agreement, and any premium on those bonds, is paid.

**SECTION 81.** ORS 238.698 is amended to read:

238.698. (1) A [governmental unit] **public body**, or a group of [governmental units] **public bodies** that enter into an intergovernmental agreement under ORS 238.695, that receives funds from any state agency may enter into a funds diversion agreement with the state agency for the purpose of paying the principal and interest on bonds issued under ORS 238.692 to 238.698, and any premium on those bonds. A diversion agreement entered into under this section must provide that:

(a) Moneys payable to the [governmental unit or governmental units] **public body or group of public bodies** by the state agency from appropriations from the General Fund or any other source of moneys will be paid directly to a debt service trust fund established under ORS 238.696 in

amounts equal to the debt service owed by the [governmental unit or governmental units] **public body or group of public bodies;**

(b) The state agency must pay the amounts required under the funds diversion agreement to the debt service trust fund established under ORS 238.696 pursuant to the schedule specified in the agreement before paying any other amounts to the [governmental unit or governmental units] **public body or group of public bodies;**

(c) The agreement is irrevocable; and

(d) The agreement will remain in effect until all the bonds issued by the [governmental unit] **public body** or under the intergovernmental agreement are mature or redeemed.

(2) If for any reason a state agency that has entered into a funds diversion agreement is not able to pay moneys to a debt service trust fund as contemplated by the agreement, the state agency shall give notice to the [governmental unit or governmental units] **public body or group of public bodies** within 30 days after the state agency is aware that the moneys will not be paid.

(3) Nothing in this section, or in any funds diversion agreement entered into by a state agency under this section, may in any manner obligate the state or any state agency:

(a) To pay any amount [to a governmental unit that the governmental unit] **that a public body** is not otherwise entitled to receive under law; or

(b) To pay any principal or interest on bonds issued under ORS 238.692 to 238.698.

**SECTION 82.** ORS 261.371 is amended to read:

261.371. [(1)] Notwithstanding any other provision of law, revenue bonds issued and sold under this chapter may be [sold by any district at public or private sale upon the terms and conditions, at the rates of interest, for the prices and at the discount or premium that the board of directors considers most advantageous to the district, with or without public bidding] **issued and sold as prescribed in ORS chapter 287.**

[(2)] All legally authorized and issued general obligation bonds shall be sold by public bidding, except that general obligation bonds may be sold to a state or to the United States or any agency, corporation or instrumentality of a state or of the United States at private sale in such blocks as the board of directors may determine.]

[(3)] All revenue or general obligation bonds to be sold by public bidding shall be advertised and sold in the manner prescribed in ORS 287.014 to 287.022.]

**SECTION 83.** ORS 266.512 is amended to read:

266.512. (1) Whenever authorized by the electors, the district board may issue general obligation bonds of the district, not exceeding [in value the] **the principal** amount stated in the notice of election and for the purpose therein named[, bearing interest at a rate determined by the board, payable semiannually, redeemable at such time or times as the board may, at the time of providing for the issuance thereof, determine, but due and payable not to exceed 30 years from date].

(2) The aggregate amount of general obligation bonds issued and outstanding at any one time shall in no case exceed two and one-half percent of the real market value of all taxable property of the district, computed in accordance with ORS 308.207.

(3) General obligation or revenue bonds must recite that they are issued under this chapter. All bonds shall be signed by the president of the district board[,] **and** attested by the secretary [and registered by the county treasurer]. The interest coupons thereto annexed shall be signed by the president and secretary, by their original or engraved facsimile signatures.

(4) All general obligation and revenue bonds issued, including refunding bonds, shall be [advertised and sold in the manner prescribed by ORS 287.014 to 287.022 for the sale of bonds of cities of this state] **issued as prescribed in ORS chapter 287.**

**SECTION 84.** ORS 267.345 is amended to read:

267.345. All general obligation and revenue bonds, including refunding bonds, issued under ORS 267.330 to 267.345 shall be [advertised and sold in the manner prescribed by ORS 287.014 to 287.022 for the sale of bonds of cities of this state] **issued as prescribed in ORS chapter 287.**

**SECTION 85.** ORS 267.400 is amended to read:

267.400. (1) A district may borrow moneys by issuing notes, warrants or other obligations:

(a) In anticipation of taxes or other revenues, including but not limited to grants awarded by the state or federal government; or

(b) To refund obligations authorized under this section.

(2) To secure obligations authorized under this section a district may:

(a) Pledge as primary security for the obligations the taxes and other revenues in anticipation of which the obligations are issued, including but not limited to grants from the state or federal government;

(b) Pledge as secondary security for the obligations the taxes and other revenues of the district other than those in anticipation of which the obligations are issued;

(c) Segregate any pledged funds in separate accounts which may be held by the district or third parties;

(d) Establish any reserves deemed necessary by the district for the payment of the obligations; and

(e) Adopt resolutions containing covenants and provisions for protection and security of the holders of obligations, which shall constitute enforceable contracts with such holders.

(3) Each issue of obligations authorized by this section:

(a) If issued in anticipation of taxes, shall not be issued prior to, and shall mature not later than the end of, the fiscal year in which the taxes are expected to be received;

(b) If issued in anticipation of other revenues, including grants for operating purposes from the state or federal government, shall not be issued more than one year prior to the time at which the district expects to receive the last installment of the revenues or grants in anticipation of which the obligations are issued, and shall mature not more than one year after the date of issue;

(c) If issued in anticipation of capital improvement grants from the state or federal government, shall not be issued more than 30 months prior to the time at which the district expects to receive the last installment of the capital improvement grant in anticipation of which the obligations are issued, and shall mature no later than 30 months after the date of issue or six months after the time at which the district expects to receive the last installment of the capital improvement grant in anticipation of which the obligations are issued, whichever is earlier;

(d) If issued in anticipation of taxes or revenues other than grants from the state or federal government, shall not be issued in an amount greater than 80 percent of the amount of taxes or such other revenues budgeted to be received by the district and in anticipation of which such obligations are issued; and

(e) If issued in anticipation of grants from the state or federal government, shall not be issued in an amount greater than 80 percent of the amount of such grants.

(4) Except as this section otherwise specifically provides, obligations authorized by this section may be in any form and contain any terms, including provisions for the varying of interest rates in accordance with any index, bankers' loan rate or other standard. A district may issue and sell as part of a single offering obligations in anticipation of two or more grants from the state or federal government, in which event the obligations constituting a part of the offering shall be issued as separate series with one series corresponding to each grant in anticipation of which the obligations are issued. A district may only pledge as primary security for a series of obligations constituting part of a single offering the grant in anticipation of which such series is issued. For purposes of subsection (3) of this section, each series of obligations constituting part of a single offering shall be a separate issue of obligations.

(5) When the taxes or other revenues, including grants from the state or federal government, in anticipation of which the obligations authorized by this section are issued are not received by the district at such time or in such amounts as will enable the district to pay the obligations at maturity, the district shall, to the extent available, first apply to the payment of the obligations the taxes or other revenues in anticipation of which such obligations were issued, and the district may pay the balance owing under such obligations out of any other taxes or revenues available for such purpose.

(6) The district may contract with third parties to serve as issuing, paying and authenticating agents for any obligations authorized by this section.

(7) Obligations authorized by this section [*may be sold at public or private sale upon such terms as the district finds advantageous, with such disclosure as the district deems appropriate. ORS 287.014 to 287.022 shall not apply to obligations authorized by this section. ORS 287.040 shall apply to obligations authorized under this section*] **shall be issued as prescribed in ORS chapter 287.**

(8) Any pledge made pursuant to subsection (2) of this section shall be valid and binding from and after the date of issue of the obligations secured by such pledge and the taxes or other revenues pledged shall be immediately subject to the lien of such pledge without the physical delivery thereof, the filing of any notice or any further act. The lien of any pledge made pursuant to subsection (2) of this section shall be valid and binding against all persons having claims of any kind against the district whether in tort, contract or otherwise, irrespective of whether such persons have notice thereof.

(9) The district shall deposit, when received, a portion of the taxes or other revenues in anticipation of which the obligations authorized by this section are issued in a separate account. Deposits to the account shall be made according to a schedule which requires that not less than 100 percent of such taxes or other revenues received by the district after the estimated date of the district's maximum cumulative cash flow deficit be placed in the account until sufficient amounts are in the account to pay principal and interest due on the obligations at maturity. The schedule shall be established by the district in its proceedings to issue the obligations. Moneys in the account shall be used only to pay principal and interest on the obligations, and may be pledged by the district for such purpose.

**SECTION 86.** ORS 267.630 is amended to read:

267.630. (1) For the purpose of performing any service that the district has power to perform, the district, when authorized at any properly called election held for such purpose, shall have the power to borrow money by the issuance and sale of general obligation bonds. Such bonds shall never exceed in the aggregate 10 percent of the real market value of all taxable property within the district computed in accordance with ORS 308.207. The bonds shall be so conditioned that the district shall promise and agree therein to pay the bearer at a place named therein payable semiannually in accordance with the tenor and terms of the interest coupons attached. The bonds shall mature serially not to exceed 30 years from the date of issue.

(2) For the purpose of performing any of the powers conferred by ORS 267.510 to 267.650 a district, when authorized at any properly called election held for such purpose, shall have the power to borrow money by the issuance and sale also of revenue bonds and to pledge as security therefor, all or any part of the unobligated net income or revenue of the district. The revenue bonds shall be issued in the same manner and form as are general obligation bonds of the district but they shall be payable both as to principal and interest from revenues only. The revenue bonds shall not be subject to the percentage limitation applicable to general obligation bonds and shall not be a lien on any of the taxable property within the corporate limits of the district and shall be payable solely from such part of revenues of the corporation as remains after the payment of obligations having a priority and of all expenses of operation and maintenance of the corporation. All revenue bonds shall contain a provision that both the principal and interest are payable solely from the operating revenues of the district remaining after paying such obligations and expenses.

(3) All general obligation bonds and revenue bonds shall be [*advertised for sale and sold in the manner prescribed in ORS 287.014 to 287.022 for the sale of bonds of cities*] **issued as prescribed in ORS chapter 287.**

**SECTION 87.** ORS 268.520 is amended to read:

268.520. (1) For the purpose of performing any service that the district has power to perform, the district, when authorized at any properly called election held for such purpose, shall have the power to borrow money by the issuance and sale of general obligation bonds. Such bonds shall never exceed in the aggregate 10 percent of the real market value of all taxable property within the district computed in accordance with ORS 308.207. The bonds shall be so conditioned that the district

shall promise and agree therein to pay the bearer at a place named therein, the principal sum with interest at a rate named therein payable semiannually in accordance with the tenor and terms of the interest coupons attached. The bonds shall mature serially not to exceed 30 years from the date of issue.

(2) All general obligation bonds shall be *[advertised for sale and sold in the manner prescribed in ORS 287.014 to 287.022 for the sale of bonds of cities]* **issued as prescribed in ORS chapter 287.**

**SECTION 88.** ORS 268.620 is amended to read:

268.620. The revenue bonds *[issued and sold under]* **authorized by ORS 268.600 to 268.660 shall be issued as prescribed in ORS chapter 287.[.]**

*[(1) Shall be deemed to be for all purposes negotiable instruments, subject only to the provisions of the bonds for registration, and need not comply with requirements of the Uniform Commercial Code.]*

*[(2) May be issued in one or more series, bear such date or dates, mature at such times and in such amounts, be in such denomination or denominations, be payable at a designated place or places within or without the State of Oregon or at the fiscal agency of the State of Oregon, be equally and ratably secured without priority or be entitled or subject to such priorities on all or any portion of the revenues of the district and, notwithstanding any other provision of law to the contrary, bear such rate or rates of interest, including a variable rate of interest to be determined at such times, in such manner and by such agent appointed for such purpose or according to such formula as the governing body may determine, and contain such other terms, conditions and covenants, all as the governing body may determine.]*

*[(3) Shall contain a recital that principal of and interest on and premium, if any, on the revenue bonds are payable solely out of revenues and property of the district pledged to the payment thereof by the ordinance of the governing body authorizing the issue of which the bonds are a part.]*

*[(4) May be in coupon form with or without privilege of registration or may be in registered form, or both, with the privilege of converting and reconverting from one form to another.]*

*[(5) May contain covenants of the district to protect and safeguard the security and rights of holders of any such bonds and such other terms and conditions, in conforming with ORS 268.600 to 268.660 which the governing body in its discretion determines are necessary or desirable to protect the district or increase the marketability of the bonds. ORS 268.600 to 268.660 and any such ordinance which constitutes a contract with the holders of the bonds and the provisions thereof shall be enforceable by any holder or any number of holders of the bonds, as the governing body may determine.]*

*[(6) Shall be in the form prescribed by the governing body and the bonds and the coupons, if any, attached to the bonds shall be signed by the presiding officer of the governing body and by the executive officer of the district, either manually or by means of their printed, engraved or lithographed signature, with the seal of the district or a facsimile thereof printed, engraved or lithographed thereon or affixed thereto. However, in the event the bonds are to be signed by means of the printed, engraved or lithographed facsimile signatures of both the presiding officer of the governing body and the executive officer of the district, the ordinance authorizing the issuance of such bonds shall provide that no bond shall be valid or obligatory for any purpose or be entitled to the benefits of or security provided by the ordinance unless and until such bond has been authenticated by means of the manual signature of a duly authorized officer of the bond trustee, paying agent, registrar or other agent appointed for such purpose. Pending the preparation and delivery of definitive bonds, a district may issue interim certificates or temporary bonds, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. Such interim certificates or temporary bonds may contain such terms and conditions as the governing body may determine.]*

*[(7) May be issued with the right reserved to the governing body to redeem the bonds at par or at par plus a premium, in such order, and at such time or times prior to the final maturity date or dates of the bonds, as the ordinance may provide or as otherwise determined by the governing body. Notice of redemption shall be given in the manner specified in the bonds, as provided in ORS 288.520. Newspaper publication of notice of redemption is not required for bonds that are in registered form.]*

**SECTION 89.** ORS 271.390 is amended to read:

271.390. (1) As used in this section:

(a) "Council of governments" means a council of governments or other similar entity created prior to the enactment of ORS 190.010 (5) on September 29, 1991.

(b) ["*Governmental unit*"] "**Public body**" has the meaning given that term in [ORS 288.150] **section 42 of this 2007 Act.**

(c) "Real or personal property" means land, improvements to land, structures, fixtures, personal property, including furnishings, equipment and computer software purchases and licenses, and any costs that may be capitalized under generally accepted accounting principles and treated as costs of personal property.

(2) A [*governmental unit*] **public body** or a council of governments may enter into contracts for the leasing, rental or financing of any real or personal property that the governing body of the [*governmental unit*] **public body** or council of governments determines is needed, including contracts for rental, long term leases under an optional contract for purchase, financing agreements with vendors, financial institutions or others, or for purchase of any property. Contracts made by a [*governmental unit*] **public body** or a council of governments are subject to the terms of its charter, intergovernmental agreement or other organizing document, if applicable. If authorized by the governing body, the contracts may:

(a) Provide that the obligations of the [*governmental unit*] **public body** or council of governments under the contract is secured by a mortgage on or other security interest in the property to be leased, rented, purchased or financed under the contract.

(b) Provide that the obligations of the [*governmental unit*] **public body** or council of governments under the contract are payable out of all or any portion of [*the*] lawfully available funds[, *as defined in ORS 288.162, of the governmental unit*] **of the public body** or council of governments, and lawfully available funds may be pledged to the payment of those obligations.

(c) If authorized by the charter, intergovernmental agreement or other organizing document of the [*governmental unit*] **public body** or council of governments, contain a covenant on the part of the [*governmental unit*] **public body** or council of governments to budget and appropriate in each fiscal year, in accordance with law, sums sufficient to pay when due the amounts owing under the contract.

(d) Provide for the issuance of certificates of participation in the payment obligations of the [*governmental unit*] **public body** or council of governments under the contract and contain other covenants, agreements and provisions determined to be necessary or appropriate in order to better secure the obligations of the [*governmental unit*] **public body** or council of governments.

(3) The lien of the pledge, mortgage or security interest is valid and binding from the time of entering into the contract. The revenue or property is immediately subject to the lien without physical delivery, filing or other act, and the lien is superior to all other claims and liens of any kind whatsoever. Subject to the terms, provisions and limitations of the contract, the lien may be foreclosed by a proceeding brought in the circuit court of the county in which the [*governmental unit*] **public body**, or the greater part thereof, or the main office of the council of governments is located, and any tangible real or personal property subject to the lien may be sold upon the order of the court. The proceeds of the sale must be applied first to the payment of the costs of foreclosure and then to the amounts owing under the contract, with any balance being paid to the [*governmental unit*] **public body** or council of governments. The authority granted by this section is in addition to, and not in lieu of, any other statutory or charter authority.

(4) A [*governmental unit*] **public body** or council of governments that has entered into a lease purchase or installment purchase agreement may enter into a financing agreement to refinance the obligations of the [*governmental unit*] **public body** or council of governments under the lease purchase or installment purchase agreement.

(5) The estimated weighted average life of a financing contract executed under this section may not exceed the estimated dollar weighted average life of the real or personal property that is financed with the contract.

**SECTION 90.** ORS 276.429 is amended to read:

276.429. (1) The Oregon Department of Administrative Services may enter into, as appropriate, leases, including lease with option to purchase, installment purchases and rental agreements, as lessee, for office quarters for state agencies. In determining which method of acquiring office quarters is most appropriate under the circumstances, the department shall consider cost and the long-term best interests of the state. It is the policy of the state, in fulfilling the objectives set forth in ORS 276.426, to acquire office quarters in the most cost-effective manner feasible.

(2) The costs to the department incurred for the purpose of making such office space ready for occupancy, including professional services, remodeling, equipment acquisition and other similar costs paid to others or incurred by the department, may be advanced out of the Oregon Department of Administrative Services Operating Fund. The fund shall be reimbursed for costs so advanced from charges paid to the department by the agency leasing the space as a tenant. Where more than one agency occupies the space, the charges shall be assessed and collected from the agencies in the manner determined by the department.

(3) Immediately following each monthly rental period, the department shall bill each state agency occupying office quarters leased under subsection (1) of this section, a sum equal to such part of the total amount required for the rent of such quarters as the rental value of the space occupied by each of the state agencies bears to the whole amount of the rental value of such space so leased by the state. Such sums and rental values shall be determined by the department. Moneys collected therefor shall be placed in the Oregon Department of Administrative Services Operating Fund established in ORS 283.076 and used for the payment of the rental and operating expenses of such office quarters.

(4) Prior to entering into any lease purchase or installment purchase agreement or before exercising any purchase option in agreements made under subsection (1) of this section, the department shall report to the legislative review agency established in ORS 291.371. However, the department shall not enter into any lease purchase or installment purchase agreement **in excess of \$100,000** under any provision of law other than ORS 283.085 to 283.092[, 286.515 and 286.525].

(5) The title to properties acquired through lease-purchase options authorized in subsection (1) of this section shall vest automatically in the Oregon Department of Administrative Services in the name of the state. Properties so acquired shall be operated as office buildings as provided in ORS 276.004.

**SECTION 91.** ORS 279A.025 is amended to read:

279A.025. (1) Except as provided in subsections (2) to (4) of this section, the Public Contracting Code applies to all public contracting.

(2) The Public Contracting Code does not apply to:

(a) Contracts between contracting agencies or between contracting agencies and the federal government;

(b) Insurance and service contracts as provided for under ORS 414.115, 414.125, 414.135 and 414.145 for purposes of source selection;

(c) Grants;

(d) Contracts for professional or expert witnesses or consultants to provide services or testimony relating to existing or potential litigation or legal matters in which a public body is or may become interested;

(e) Acquisitions or disposals of real property or interest in real property;

(f) Sole-source expenditures when rates are set by law or ordinance for purposes of source selection;

(g) Contracts for the procurement or distribution of textbooks;

(h) Procurements by a contracting agency from an Oregon Corrections Enterprises program;

(i) The procurement, transportation or distribution of distilled liquor, as defined in ORS 471.001, or the appointment of agents under ORS 471.750 by the Oregon Liquor Control Commission;

(j) Contracts entered into under ORS chapter 180 between the Attorney General and private counsel or special legal assistants;

(k) Contracts for the sale of timber from lands owned or managed by the State Board of Forestry and the State Forestry Department;

(L) Contracts for forest protection or forest related activities, as described in ORS 477.406, by the State Forester or the State Board of Forestry;

(m) Sponsorship agreements entered into by the State Parks and Recreation Director in accordance with ORS 565.080 (4);

(n) Contracts entered into by the Housing and Community Services Department in exercising the department's duties prescribed in ORS chapters 456 and 458, except that the department's public contracting for goods and services, as defined in ORS 279B.005, is subject to ORS chapter 279B;

(o) Contracts entered into by the State Treasurer in exercising the powers of that office prescribed in ORS chapters 178, 286, 287, [288,] 289, 293, 294 and 295, including but not limited to investment contracts and agreements, banking services, clearing house services and collateralization agreements, bond documents, certificates of participation and other debt repayment agreements, and any associated contracts, agreements and documents, regardless of whether the obligations that the contracts, agreements or documents establish are general, special or limited, except that the State Treasurer's public contracting for goods and services, as defined in ORS 279B.005, is subject to ORS chapter 279B;

(p) Contracts, agreements or other documents entered into, issued or established in connection with:

(A) The *[incurring of debt by]* **issuance of obligations, as defined in sections 17 and 50 of this 2007 Act, of a public body***[, including but not limited to the issuance of bonds, certificates of participation and other debt repayment obligations, and any associated contracts, agreements or other documents, regardless of whether the obligations that the contracts, agreements or other documents establish are general, special or limited];*

(B) The making of program loans and similar extensions or advances of funds, aid or assistance by a public body to a public or private body for the purpose of carrying out, promoting or sustaining activities or programs authorized by law; or

(C) The investment of funds by a public body as authorized by law, and other financial transactions of a public body that by their character cannot practically be established under the competitive contractor selection procedures of ORS 279B.050 to 279B.085;

(q) Contracts for employee benefit plans as provided in ORS 243.105 (1), 243.125 (4), 243.221, 243.275, 243.291, 243.303 and 243.565; or

(r) Any other public contracting of a public body specifically exempted from the code by another provision of law.

(3) The Public Contracting Code does not apply to the public contracting activities of:

(a) The Oregon State Lottery Commission;

(b) The Oregon University System and member institutions, except as provided in ORS 351.086;

(c) The legislative department;

(d) The judicial department;

(e) Semi-independent state agencies listed in ORS 182.451 and 182.454, except as provided in ORS 279.835 to 279.855 and 279A.250 to 279A.290;

(f) Oregon Corrections Enterprises;

(g) The Oregon Film and Video Office, except as provided in ORS 279A.100 and 279A.250 to 279A.290;

(h) The Travel Information Council, except as provided in ORS 279A.250 to 279A.290;

(i) The Oregon 529 College Savings Network and the Oregon 529 College Savings Board;

(j) The Oregon Innovation Council; or

(k) Any other public body specifically exempted from the code by another provision of law.

(4) ORS 279A.200 to 279A.225 and 279B.050 to 279B.085 do not apply to contracts made with qualified nonprofit agencies providing employment opportunities for disabled individuals under ORS 279.835 to 279.855.

**SECTION 92.** ORS 280.075 is amended to read:

280.075. (1) Notwithstanding any other law and when not inconsistent with or otherwise provided for in the Oregon Constitution, whenever a proposed local option tax is submitted to a vote of the people by any subdivision, the statement in the ballot title for the measure that explains the chief purpose of the measure and gives reasons for the measure shall state the total amount of money to be raised by the proposed local option tax, in dollars and cents. If the statement in the ballot title for the measure submitted includes an estimated tax impact, it shall be based on the most current estimate of assessed value from the county assessor. The measure shall bear the statement: "The estimated tax cost for this measure is an ESTIMATE ONLY based on the best information available from the county assessor at the time of estimate."

(2) Subsection (1) of this section does not apply to a local option tax described in ORS 280.060 (1)(b). For a levy described in ORS 280.060 (1)(b), an estimate of the total amount of money to be raised for each year of the proposed local option tax shall be stated in dollars and cents. If the levy described in ORS 280.060 (1)(b) raises more money than estimated, the excess collections above that estimate shall be considered a budget resource for the levy fund in the next fiscal year of the subdivision. This section [*has no application to elections and levies with respect to bonds, for which provision is made in ORS 287.004 to 287.022 and 287.052 to 287.488 or other laws*] **does not apply to an election authorizing general obligation bonds or the tax levies to repay general obligation bonds.**

(3) The statement or statements required by subsections (1) and (2) of this section shall be added to and made a part of the 175-word statement required by ORS 250.035. The number of words contained in the statements described in subsections (1) and (2) of this section shall not be included in the 175-word limitation.

**SECTION 93.** ORS 280.450 is amended to read:

280.450. Bonds authorized under ORS 280.410 to 280.485 shall be issued in accordance with the provisions of the charter of the city relating to bonds payable from income of revenue producing facilities. Bond issues may mature at any time within 40 years from the date of issue, *may be sold at public or private sale and shall be sold in accordance with the provisions of ORS 288.515 to 288.600*. **Bonds shall be issued as prescribed in ORS chapter 287.**

**SECTION 94.** ORS 283.085 is amended to read:

283.085. As used in ORS 283.085 to 283.092[, *286.515 and 286.525*]:

(1) "Available funds" means funds appropriated or otherwise made available by the Legislative Assembly to pay amounts due under a financing agreement for the fiscal period in which the payments are due, together with any unexpended proceeds of the financing agreement, and any reserves or other amounts which have been deposited in trust to pay amounts due under the financing agreement.

(2) "Credit enhancement agreement" means any agreement or contractual relationship between the state and any bank, trust company, insurance company, surety bonding company, pension fund or other financial institution providing additional credit on or security for a financing agreement or certificates of participation authorized by ORS 283.085 to 283.092[, *286.515 and 286.525*].

(3) "Director" means the Director of the Oregon Department of Administrative Services.

(4)(a) "Financing agreement" means a lease purchase agreement, an installment sale agreement, a loan agreement or any other agreement:

(A) To finance real or personal property that is or will be owned and operated by the state or any of its agencies;

(B) To finance infrastructure related to a facility that is owned and operated by the state;

(C) To finance infrastructure components that are owned or operated by a local government agency of this state if the director determines that financing the infrastructure will facilitate the construction or operation of an adult or juvenile corrections facility or a public safety training facility owned and operated by the state or any of its agencies;

(D) To finance all or a portion of the state's pension liabilities for retirement, health care or disability benefits, in an amount that produces net proceeds that do not exceed the State Treasurer's

estimate of those liabilities based on information provided to the State Treasurer by the Public Employees Retirement System; or

(E) To refinance previously executed financing agreements.

(b) As used in this subsection, "infrastructure" includes, but is not limited to, sewer and water systems and road improvements.

(5) "Personal property" means tangible personal property, software and fixtures.

(6) "Property rights" means, with respect to personal property, the rights of a secured party under ORS chapter 79, and, with respect to real property, the rights of a trustee or lender under a lease authorized by ORS 283.089 [(5)] (1)(e).

(7) "Software" means software and training and maintenance contracts related to the operation of computing equipment.

(8) "Treasurer" means the State Treasurer.

**SECTION 95.** ORS 283.087 is amended to read:

283.087. With the approval of the State Treasurer, the Director of the Oregon Department of Administrative Services may enter into financing agreements in accordance with ORS 283.085 to 283.092[, 286.515 and 286.525], **and may exercise the powers granted to a related agency, as defined in section 2 of this 2007 Act, by ORS chapter 286 for bonds in connection with those financing agreements** upon such terms as the director and the treasurer find to be advantageous to the state. Financing agreements shall be subject to the following limitations:

(1) Amounts payable by the state under a financing agreement shall be limited to available funds. In no circumstance shall the state be obligated to pay amounts due under a financing agreement from any source other than available funds. If there are insufficient available funds to pay amounts due under a financing agreement, the lender may exercise any property rights which the state has granted to it in the financing agreement, against the property which was purchased with the proceeds of the financing agreement, and apply the amounts so received toward payments scheduled to be made by the state under the financing agreement.

(2) No property rights may be granted in property unless the property is being acquired, substantially improved or refinanced with the proceeds of a financing agreement, or is land on which such property is located.

(3) [*For periods after June 30, 1989,*] The principal amount of financing agreements entered into by the state pursuant to ORS 283.085 to 283.092[, 286.515 and 286.525] shall be treated as an amount of bonds and [*shall be*] **is** subject to [*the provisions of ORS 286.505 to 286.545*] **section 9 of this 2007 Act.**

(4) The limitations of subsection (3) of this section shall not apply to financing agreements which are used to refinance previously executed financing agreements. The expenditure of funds used to finance previously executed financing agreements and pay the costs incurred to issue the new financing agreements shall be recorded using administrative budget limitations.

(5) The state or any state agency shall not enter into financing agreements under any provision of law other than ORS 283.085 to 283.092[, 286.515 and 286.525] if the principal amount of the financing agreement, together with the principal amount of any financing agreement previously issued by the state or a state agency for the same project, exceeds \$100,000.

(6) Upon the request and with the approval of the Chief Justice of the Supreme Court or the State Court Administrator, the Director of the Oregon Department of Administrative Services may enter into financing agreements in accordance with ORS 283.085 to 283.092[, 286.515 and 286.525], on behalf of the Judicial Department.

[(7) *Financing agreements may bear interest that is includable in, or is excludable from, gross income under the Internal Revenue Code.*]

**SECTION 95a.** ORS 283.089 is amended to read:

283.089. (1) With the approval of the State Treasurer, the Director of the Oregon Department of Administrative Services may:

[(1)] (a) Enter into agreements with trustees to hold financing agreement proceeds, payments and reserves as security for lenders, and to issue certificates of participation in the right to receive

payments due from the state under a financing agreement. Amounts held with a trustee shall be invested by the trustee at the direction of the **State** Treasurer. Interest earned on any investments held by a trustee as security for a financing agreement may, at the option of the director, be credited to the accounts held by the trustee and applied in payment of sums due under a financing agreement.

[(2)] **(b)** Enter into credit enhancement agreements for financing agreements or certificates of participation, provided that such credit enhancement agreements shall be payable solely from available funds and amounts received from the exercise of property rights granted under such financing agreements.

[(3)] **(c)** Use the gross proceeds of financing agreements for the purposes described in ORS 283.085 (4) and to pay the costs of reserves, credit enhancements and other costs associated with issuing, administering and maintaining the financing.

[(4)] **(d)** Use a single financing agreement to finance property to be used by multiple state agencies.

[(5)] **(e)** Subject to ORS 283.087 (2), grant leases of real property with a trustee or lender. Such leases may be for a term which ends on the date on which all amounts due under a financing agreement have been paid or provision for payment has been made, or 10 years after the last scheduled payment under a financing agreement, whichever is later. Such leases may grant the trustee or lender the right to evict the state and exclude it from possession of the real property for the term of the lease if the state fails to pay when due the amounts scheduled to be paid under a financing agreement or otherwise defaults under a financing agreement. Upon default, the trustee or lender may sublease the land to third parties and apply any rentals toward payments scheduled to be made under a financing agreement.

[(6)] **(f)** Subject to ORS 283.087 (2), grant security interests in personal property to trustees or lenders. Such security interests shall attach and be perfected on the date the state takes possession of the personal property, or the date the lender advances money under a financing agreement, whichever is later. A security interest authorized by this section shall have priority over all other liens and claims. Upon default, the secured party shall have the rights and remedies available to a secured party under ORS chapter 79 for a first, perfected security interest in goods and fixtures. No later than 10 days after a security interest authorized by this section attaches, the state shall cause a financing statement for the security interest to be filed with the Secretary of State in the same manner as financing statements are filed for goods; however, failure to file such a statement shall not affect the perfection of the security interest.

[(7)] **(g)** Pledge for the benefit of trustees and lenders any amounts which are deposited with a trustee in accordance with a financing agreement. The pledge shall be valid and binding from the time it is made, the amounts so pledged shall immediately be subject to the lien of the pledge without filing, physical delivery or other act, and the lien of the pledge shall be superior to all other claims and liens of any kind whatsoever.

[(8)] **(h)** Bill any state agency that benefits from a financing agreement for an appropriate share of the financing costs[, *including debt service,*] on a monthly or other periodic basis, and deposit payments received in connection with [*such*] **the** billings with a trustee as security for a financing agreement. Any state agency receiving such a bill shall pay the amounts billed from the first amounts legally available to it. The director shall allocate in appropriate shares the financing costs of a financing agreement entered into for the purpose described in ORS 283.085 (4)(a)(D) among all state agencies based on their payroll costs. [*As used in this subsection, "state agency" has the meaning given that term in ORS 286.730.*]

[(9)] **(i)** Purchase fire and extended coverage or other casualty insurance for property which is acquired or refinanced with proceeds of a financing agreement, assign the proceeds thereof to a lender or trustee to the extent of their interest, and covenant to maintain such insurance while the financing agreement is unpaid, so long as available funds are sufficient to purchase such insurance.

**(2) As used in this section:**

(a) **“Financing costs” means the costs or expenses that the State Treasurer or the Director of the Oregon Department of Administrative Services determines are necessary or desirable in connection with entering into financing agreements and maintaining the certificate of participation program, including but not limited to paying:**

(A) **Amounts due under financing agreements;**

(B) **Costs and obligations the state incurs in connection with the exercise of a power granted by this section; and**

(C) **Amounts due in connection with the investment of proceeds of financing agreements.**

(b) **“State agency” has the meaning given that term in ORS 286.730.**

**SECTION 96.** ORS 283.092 is amended to read:

283.092. A lease or financing agreement authorized by ORS 283.085 to 283.092[, 286.515 and 286.525] shall not cause property to be subject to property taxation and shall be disregarded in determining whether property is exempt from taxation under ORS chapter 307.

**SECTION 97.** ORS 285B.323 is amended to read:

285B.323. As used in ORS 285B.320 to 285B.371, unless the context requires otherwise:

(1) **“Bond” or “revenue bond” means [any evidence of indebtedness, including but not limited to any bond, note, obligation, loan agreement, financing agreement, contracts for leasing, rental or financing of real or personal property, including contracts for rental, long term leases under an optional contract for purchase, financing agreements with vendors, financial institutions or others or for purchase of any property secured by revenues or from other financing sources as provided in ORS 285B.320 to 285B.371. A bond, as defined in this subsection and issued under ORS 285B.320 to 285B.371, shall be considered a revenue bond for purposes of ORS 286.031] a revenue bond, as defined in section 2 of this 2007 Act.**

(2) **“Economic development project” includes any properties, real or personal, used or useful in connection with a revenue producing enterprise [or any solid waste disposal facilities], an exempt facility or a nonprofit entity, and [related] vehicles, rolling stock or equipment related to an enterprise, facility or entity. “Economic development project” shall not include any facility or facilities designed primarily for the generation, transmission, sale or distribution of electrical energy.**

(3) **“Eligible project” means an economic development project found by the Oregon Economic and Community Development Commission to meet standards of the commission adopted under ORS 285A.110. The commission may treat as a single eligible project for bonding purposes any number of economic development projects determined to be eligible projects.**

(4) **“Exempt facility” means any facility described under section 142(a) of the Internal Revenue Code.**

(5) **“Nonprofit entity” means an institution, organization or entity exempt from taxation under section 501(c)(3) of the Internal Revenue Code.**

**SECTION 97a.** ORS 285B.326 is amended to read:

285B.326. (1) Upon determining an economic development project an “eligible project,” the Oregon Economic and Community Development Commission shall [forward the application to] **request that** the State Treasurer[, who shall determine whether to] issue the bonds.

(2) The commission shall collect [the] fees [set forth in subsection (3) of this section from an applicant that seeks to have an economic development project declared eligible for financing. The fee may be collected even though the project has not been determined to be eligible for financing] **in accordance with rules adopted by the commission.** Moneys collected under this subsection shall be deposited in the Oregon Community Development Fund created under ORS 285A.227 and are continuously appropriated to the commission for the purpose of administration or funding of any program it is authorized to operate.

(3) [The fees described in subsection (2) of this section are as follows:]

[a] \$250 for an application of not to exceed \$500,000.]

[b] \$500 for an application of more than \$500,000.]

*[(c) A closing fee of not to exceed one-half of one percent of the total bond issue for the project, as determined by the commission]* **The commission shall establish by rule fees sufficient to reimburse the commission for administrative expenses incurred in connection with the initial review of an eligible project and matters arising from the issuance of the bonds.**

**SECTION 98.** ORS 285B.335 is amended to read:

285B.335. (1) In addition to any other powers granted by law or by charter, *[in relation to an eligible project, the state, acting through the State Treasurer or a designee thereof,]* **the Economic and Community Development Department** may:

*[(1)]* (a) Enter into agreements to finance the costs of an eligible project by loaning or otherwise making available the proceeds of bonds authorized by ORS 285B.344 to *[any person, firm or public or private corporation or federal or state governmental subdivision or agency]* **a person, an agency of the federal government or state government, as defined in ORS 174.111, under *[such]* terms and with *[such]* security *[as the state may approve]* approved by the department;**

*[(2)]* (b) Lease and sublease eligible projects to *[any person, firm or public or private corporation or federal or state governmental subdivision or agency in such manner that rents to be charged for the use of such projects shall be established, and revised from time to time as necessary, so as to produce income and revenue sufficient to provide for the prompt payment of principal of and interest on all bonds issued under this section when due, and the lease or financing agreement shall also provide that the lessee, borrower or financing party shall be required to pay all expenses of the operation and maintenance of the project including, but without limitation, adequate insurance thereon and insurance against all liability for injury to persons or property arising from the operation thereof, and all taxes and special assessments levied upon or with respect to the leased premises and payable during the term of the lease, during which term ad valorem taxes in the same amount and to the same extent as though the lessee were the owner of all real and personal property comprising the project]* **a person, an agency of the federal government or state government, as defined in ORS 174.111, subject to subsection (2) of this section;**

*[(3)]* Pledge and assign to the holders of such bonds or a trustee therefor all or any part of the revenues of one or more eligible projects owned or to be acquired by the state, and define and segregate such revenues or provide for the payment thereof to a trustee;]

**(c) Pledge or assign all or part of the revenues of one or more eligible projects owned or to be acquired by the state to the holders of bonds issued under this section or to a trustee for the holders, and segregate the revenues or provide for payment of the revenues to the trustee.**

*[(4)]* (d) Mortgage or otherwise encumber eligible projects in favor of the holders of *[such bonds or in favor of any escrow agent, vendor, lender, other financing party or trustee therefor. However, in creating any such mortgages or encumbrances the state can not obligate itself]* **bonds issued under this section, a trustee for the holders of the bonds, or an escrow agent, vendor, lender, other financing party or trustee for the bonds without obligating the state** except with respect to the project;

*[(5)]* Make all contracts, execute and deliver all instruments, and do all things necessary or convenient in the exercise of the powers granted by this section, or in the performance of its covenants or duties, or in order to secure the payment of its bonds; including a contract entered into prior to the construction, acquisition and installation of the eligible project authorizing the lessee, borrower or other financing party, subject to such terms and conditions as the state shall find necessary or desirable and proper, to provide for the construction, acquisition and installation of the buildings, improvements and equipment to be included in the project by any means available to the lessee, borrower or other financing party, and in the manner determined by the lessee, borrower or other financing party, and without advertisement for bids as may be required for the construction, acquisition or installation of other public facilities;]

**(e) Make contracts, execute instruments and do what is necessary or desirable to exercise the powers granted by this section, to perform the covenants or duties of this state or to secure the payment of bonds issued under this section. Contracts that may be made by**

the state include, but are not limited to, contracts entered into prior to construction, acquisition or installation of an eligible project that authorize, subject to terms and conditions the state finds necessary or desirable, a lessee to provide for construction, acquisition or installation of buildings, improvements or equipment to be included in the project.

*[(6) Enter into and perform such contracts and agreements with political subdivisions and state agencies as the respective governing bodies of the same may consider proper and feasible for or concerning the planning, construction, installation, lease, or other acquisition, and the financing of such facilities, which contracts and agreements may establish a board, commission or such other body as may be deemed proper for the supervision and general management of the facilities of the eligible project;]*

**(f) Enter into and perform contracts and agreements with participating institutions for the planning, construction, installation, acquisition, leasing or financing of facilities of an eligible project, including a contract or agreement that establishes a body for the supervision and general management of the facilities.**

*[(7) Accept from any authorized agency of the state or federal government loans or grants for the planning, construction, acquisition, leasing, or other provision of any eligible project, and enter into agreements with such agency respecting such loans or grants; and]*

**(g) Accept loans or grants for the planning, construction, installation, acquisition, leasing or other provision of an eligible project from an authorized agency of the federal government, and enter into agreements with the agency respecting the loans or grants.**

*[(8)] (h) Acquire, own, sell, assign or otherwise hold legal or equitable title to or an interest in eligible projects or hold federal tax ownership of eligible projects.*

**(2) A lease or sublease entered into under subsection (1)(b) of this section must provide that:**

**(a) Rents charged for the use of the project are established and revised as necessary to produce sufficient revenue to allow for payment of the principal of and interest on bonds issued under this chapter when due; and**

**(b) The lessee or sublessee is required to pay:**

**(A) The expenses of the operation and maintenance of the project including, but not limited to, adequate insurance on the project and insurance against liability for injury to persons or property arising from the operation of the project; and**

**(B) The taxes and special assessments levied upon the leased or subleased premises and payable during the term of the lease or sublease.**

**(3) During the term of a lease or sublease entered into under subsection (1)(b) of this section, ad valorem taxes must be imposed on the real and personal property of the eligible project in the same manner as the taxes would be imposed if the lessee or sublessee were the owner of the eligible project.**

**SECTION 99.** ORS 285B.344 is amended to read:

*285B.344. [(1) If the State Treasurer determines that bonds should be issued:]*

*[(a)] (1) At the request of the Economic and Community Development Department, the State Treasurer may [authorize and issue in the name of the State of Oregon] issue under ORS 285B.320 to 285B.371 and ORS chapter 286 bonds secured by revenues from eligible economic development projects or from other financing sources to finance or refinance in whole or part the cost of acquisition, construction, reconstruction, improvement or extension of projects. The bonds shall be identified by project. [and issued in the manner prescribed by ORS 286.010, 286.020 and 286.105 to 286.135, and] Refunding bonds may be issued to refinance such bonds.*

*[(b)] (2) [The State Treasurer shall designate the underwriter, vendor, lender or other financing party, if any, and enter into appropriate agreements with each to carry out the provisions of ORS 285B.320 to 285B.371. The Economic and Community Development Department, with the approval of the State Treasurer, shall designate the trustee and enter into appropriate agreements with the trustee to carry out the provisions of ORS 285B.320 to 285B.371.] The department or the State Treasurer may appoint bond counsel as [authorized by ORS 288.523, or the State Treasurer may enter into an*

*agreement with bond counsel if the services provided under the agreement comply with the provisions of ORS 288.523 and the appointment is approved by the Attorney General as required by ORS 288.523. The department may not make an appointment or enter into an agreement under this paragraph unless the State Treasurer has reviewed and approved the terms and conditions of the appointment or agreement. ORS 279A.140 does not apply to any appointment or agreement described in this paragraph]*  
**prescribed under section 20 of this 2007 Act.**

[2)] (3) Any escrow agent, bond registrar, paying agent or trustee, if any, designated [by the State Treasurer] to carry out all or part of the powers specified in ORS 285B.335 must agree to furnish financial statements and audit reports for each bond issue.

**SECTION 100.** ORS 285B.350 is amended to read:

285B.350. Bonds authorized under ORS 285B.320 to 285B.371 shall be issued in accordance with the provisions of ORS [288.515 to 288.550] **chapter 286.**

**SECTION 101.** ORS 285B.362 is amended to read:

285B.362. The official action authorizing the issuance of bonds under ORS 285B.320 to 285B.371 to finance or refinance in whole or in part, the acquisition, construction, installation, reconstruction, improvement, betterment or extension of any eligible project may contain covenants, notwithstanding that such covenants may limit the exercises of powers conferred by ORS 285B.320 to 285B.371 in the following respects and in such other respects as the [state, acting through the State Treasurer, or the designee of the treasurer] **Economic and Community Development Department** may decide:

(1) The rents to be charged for the use of properties acquired, constructed, installed, reconstructed, improved, bettered or extended under the authority of ORS 285B.320 to 285B.371;

(2) The use and disposition of the revenues of such projects;

(3) The creation and maintenance of sinking funds and the regulation, use and disposition thereof;

(4) The creation and maintenance of funds to provide for maintaining the eligible project and replacement of properties depreciated, damaged, destroyed or condemned;

(5) The purpose or purposes to which the proceeds of sale of bonds may be applied and the use and disposition of such proceeds;

(6) The nature of mortgages or other encumbrances on the eligible project made in favor of the holder or holders of such bonds or in favor of any escrow agent, vendor, lender, other financing party or trustee therefor;

(7) The events of default and the rights and liabilities arising thereon and the terms and conditions upon which the holders of any bonds may bring any suit or action on such bonds or on any coupons appurtenant thereto;

(8) The issuance of other or additional bonds or instruments payable from or constituting a charge against the revenue of the eligible project;

(9) The insurance to be carried upon the eligible project and the use and disposition of insurance moneys;

(10) The keeping of books of account and the inspection and audit thereof;

(11) The terms and conditions upon which any or all of the bonds shall become or may be declared due before maturity and the terms and conditions upon which such declaration and its consequences may be waived;

(12) The rights, liabilities, powers and duties arising upon the breach by the municipality or redevelopment agency of any covenants, conditions or obligations;

(13) The appointing of and vesting in a trustee or trustees of the right to enforce any covenants made to secure or to pay the bonds; the powers and duties of such trustee or trustees, and the limitation of their liabilities;

(14) The terms and conditions upon which the holder or holders of the bonds, or the holders of any proportion or percentage of them, may enforce any covenants made under ORS 285B.320 to 285B.371;

(15) A procedure by which the terms of any official action authorizing bonds or of any other contract with bondholders, including but not limited to an indenture of trust or similar instrument, may be amended or abrogated, and the amount of bonds the holders of which may consent thereto, and the manner in which such consent may be given; and

(16) The subordination of the security of any bonds issued under ORS 285B.320 to 285B.371 and the payment of principal and interest thereof, to the extent deemed feasible and desirable by the state, to other bonds or obligations of the state issued to finance the eligible project or that may be outstanding when the bonds thus subordinated are issued and delivered.

**SECTION 102.** ORS 285B.371 is amended to read:

285B.371. The state, acting through [*the State Treasurer and*] the Oregon Economic and Community Development Commission[, *or either of them,*] may loan the proceeds of the bonds authorized by ORS 285B.320 to 285B.371 for eligible projects without the necessity of the state having any ownership or leasehold interest in the eligible projects. Loans made pursuant to this section shall be secured, if at all, to the extent deemed necessary or desirable by the [*State Treasurer and the*] Oregon Economic and Community Development Commission.

**SECTION 102a.** ORS 285B.455 is amended to read:

285B.455. (1) There is created the Special Public Works Fund, separate and distinct from the General Fund. All moneys credited to the Special Public Works Fund are appropriated continuously to the Economic and Community Development Department.

(2) The fund shall consist of all moneys credited to the fund, including:

(a) Moneys appropriated to the fund by the Legislative Assembly or transferred to the fund by the Oregon Economic and Community Development Commission;

(b) Earnings on the fund;

(c) Repayment of financial assistance, including interest;

(d) Moneys received from the federal government, other state agencies or local governments;

(e) Bond proceeds as authorized under ORS 285B.410 to 285B.482 or other law; and

(f) Moneys from any other source, including but not limited to grants and gifts.

(3) Moneys in the Special Public Works Fund[, *with the approval of the State Treasurer,*] may be invested as provided by ORS 293.701 to 293.820 and the earnings from the investments shall be credited to the account in the Special Public Works Fund designated by the department.

(4) The department shall administer the Special Public Works Fund.

(5) The department may establish other accounts within the Special Public Works Fund for the payment of project costs, reserves, debt service payments, credit enhancement, administrative costs and operation expenses or any other purpose necessary to carry out ORS 285B.410 to 285B.482.

(6) The department may grant, expend or loan moneys in the fund to:

(a) Provide financial or other assistance to municipalities for projects determined by the department to be appropriate.

(b) Purchase goods or services related to a project on behalf of the municipality.

(c) Provide state funds as a match for federal funds available for the administration of the Community Development Block Grant program.

(d) Finance administrative costs of the department pursuant to ORS 285B.410 to 285B.482.

(e) Provide annual grants on behalf of a municipality in the form of partial repayment to bondholders of amounts owed.

(f) Cover contracts that are issued to guaranty any portion of the obligation of a municipality to finance a development project and that are not sold to the State of Oregon. Guaranty contracts under this paragraph shall be payable solely from moneys in the Special Public Works Fund, and shall not constitute a debt or obligation of the State of Oregon. The department may, on behalf of the state, establish a special account in the fund and commit to deposit into the account specified portions of existing and future allocations to the fund. The commitments shall be made by rule of the department and shall constitute covenants of the state for the benefit of the owners of obligations guaranteed by the state pursuant to this section.

(7) As used in this section, “administrative costs” includes the department’s direct and indirect costs for investigating and processing an application, developing a contract, monitoring the use of funds by a municipality, investigating and resolving budget discrepancies, closing a project and providing financial or other assistance to a municipality.

**SECTION 103.** ORS 285B.470 is amended to read:

285B.470. In addition to any other powers granted by law in relation to a development project, the Economic and Community Development Department[, *acting through the State Treasurer or designee*] may:

(1) Make all contracts, execute all instruments and do all things necessary or convenient in the exercise of the powers granted by this section, or in the performance of its covenants or duties, or in order to secure the payment of its bonds;

(2) Enter into and perform contracts and agreements with municipalities as the department may consider proper and feasible for or concerning the planning, construction, installation, lease or other acquisition, and the financing of projects; and

(3) Enter into covenants for the benefit of bond owners regarding the use and expenditure of moneys in the Special Public Works Fund.

**SECTION 104.** ORS 285B.473 is amended to read:

285B.473. [*If the State Treasurer determines that revenue bonds should be issued:*]

(1) **At the request of the Economic and Community Development Department**, the State Treasurer may [*authorize and issue in the name of the State of Oregon*] **issue under ORS 285B.467 to 285B.479 and ORS chapter 286** revenue bonds secured by moneys paid to the Special Public Works Fund pledged therefor to finance or refinance in whole or part the cost of acquisition, construction, reconstruction, improvement or extension of development projects. [*The bonds shall be issued in the manner prescribed by ORS chapter 286, and*] Refunding bonds may be issued to refinance the revenue bonds.

[*(2) The State Treasurer shall designate the underwriter and enter into appropriate agreements with the underwriter to carry out the provisions of ORS 285B.467 to 285B.479. The Economic and Community Development Department, with the approval of the State Treasurer, shall designate the trustee and enter into appropriate agreements with the trustee to carry out the provisions of ORS 285B.467 to 285B.479. The department may appoint bond counsel as authorized by ORS 288.523, or the State Treasurer may enter into an agreement with bond counsel if the services provided under the agreement comply with the provisions of ORS 288.523 and the appointment is approved by the Attorney General as required by ORS 288.523. The department may not make an appointment or enter into an agreement under this subsection unless the State Treasurer has reviewed and approved the terms and conditions of the appointment or agreement. ORS 279A.140 does not apply to any appointment or agreement described in this subsection.*]

**(2) The department or the State Treasurer may appoint bond counsel as prescribed in section 20 of this 2007 Act.**

**SECTION 105.** ORS 285B.479 is amended to read:

285B.479. (1) Revenue bonds issued under ORS 285B.467 to 285B.479:

(a) [*Shall*] **May** not be payable from nor charged upon any funds other than the revenue pledged to the payment thereof, except as provided in this section, nor shall the state be subject to any liability thereon. No holder or holders of such bonds shall ever have the right to compel any exercise of the taxing power of the state to pay any such bonds or the interest thereon, nor to enforce payment thereof against any property of the state except those moneys pledged therefor in the Special Public Works Fund, under the provisions of ORS 285B.467 to 285B.479.

(b) [*Shall*] **May** not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the state, except those moneys paid to the Special Public Works Fund.

(2) A **revenue bond** [*shall*] **issued under ORS 285B.467 to 285B.479 does** not constitute a debt of the State of Oregon or a lending of the credit of [*the*] **this** state within the meaning of any constitutional or statutory limitation.

**SECTION 105a.** ORS 285B.533 is amended to read:

285B.533. (1) Infrastructure lottery bonds shall be issued under ORS 286.560 to 286.580 [*and 348.716*] only at the request of the Director of the Economic and Community Development Department. Infrastructure lottery bonds may be issued in an amount sufficient to provide no more than \$6 million of net proceeds to pay costs of infrastructure projects, plus the amounts required to pay bond-related costs.

(2) The net proceeds from the sale of the infrastructure lottery bonds shall be allocated to the Economic and Community Development Department for the State of Oregon's match of federal moneys under the Safe Drinking Water Act.

(3) The net proceeds from the sale of the infrastructure lottery bonds that are available to pay costs of infrastructure projects shall be credited to the Water Fund created by ORS 285B.563. All such net proceeds are appropriated continuously to the Economic and Community Development Department only for payment of costs of infrastructure projects described in subsection (2) of this section and for payment of bond-related costs that are allocable to infrastructure lottery bonds.

(4) The Economic and Community Development Department and any municipality receiving proceeds of infrastructure lottery bonds shall, if so directed by the Oregon Department of Administrative Services, take any action specified by the Oregon Department of Administrative Services that is necessary to maintain the excludability of lottery bond interest from gross income under the United States Internal Revenue Code.

**SECTION 106.** ORS 285B.548 is amended to read:

285B.548. [(1) *Notwithstanding ORS 286.505 to 286.545, infrastructure lottery bonds may be issued during the 1997-1999 biennium in an aggregate principal amount that produces net proceeds for infrastructure projects that shall not exceed \$6 million, plus an amount that the State Treasurer estimates will be required to pay bond-related costs.*]

[(2) *In future biennial periods, The amount of infrastructure lottery bonds that may be issued shall be authorized under ORS 286.505 to 286.545.*]

**Infrastructure lottery bonds may not be issued in excess of the amounts permitted by section 9 of this 2007 Act.**

**SECTION 106a.** Section 4, chapter 756, Oregon Laws 2005, is amended to read:

**Sec. 4.** (1)(a) For the biennium beginning July 1, 2005, the State Treasurer is authorized to issue lottery bonds pursuant to ORS 286.560 to 286.580 [*and 348.716*] in the amount of \$6 million for payment of grants to the Coos County Airport District related to the construction of a passenger terminal facility at the North Bend Airport, plus an additional amount estimated by the State Treasurer for payment of bond-related costs of the Economic and Community Development Department and the State Treasurer.

(b) For the biennium beginning July 1, 2007, the State Treasurer is authorized to issue lottery bonds pursuant to ORS 286.560 to 286.580 [*and 348.716*] in the amount of \$4 million for payment of grants to the Coos County Airport District related to the construction of a passenger terminal facility at the North Bend Airport, plus an additional amount estimated by the State Treasurer for payment of bond-related costs of the Economic and Community Development Department and the State Treasurer.

(2)(a) Net proceeds of lottery bonds issued under subsection (1)(a) of this section, in the amount of \$6 million, shall be deposited in the North Bend Airport Improvement Fund established by section 3, **chapter 756, Oregon Laws 2005**, [*of this 2005 Act*] not later than December 15, 2005.

(b) Net proceeds of lottery bonds issued under subsection (1)(b) of this section, in the amount of \$4 million, shall be deposited in the North Bend Airport Improvement Fund established by section 3, **chapter 756, Oregon Laws 2005**, [*of this 2005 Act*] not later than December 15, 2007.

**SECTION 107.** ORS 285B.563 is amended to read:

285B.563. (1) There is established in the State Treasury, separate and distinct from the General Fund, the Water Fund. All moneys in the Water Fund are continuously appropriated to the Economic and Community Development Department for the purposes described in ORS 285B.560 to 285B.599, including the direct project management costs and for the purpose specified in ORS 285A.075 (9).

- (2)(a) Moneys in the Water Fund may be obligated to water projects.
- (b) Moneys shall be used primarily to make loans to municipalities. The department may make a loan only if:
- (A) The municipality applying for the loan certifies to the department that adequate funds will be available to repay the loan; and
- (B) The department determines that the amount of the loan applied for is based on a reasonable and prudent expectation of the municipality's ability to repay the loan.
- (c) The department may award a grant only if a loan is not feasible due to:
- (A) Financial hardship to the municipality, as determined by the department, based on consideration of anticipated water service charges or anticipated waste water service charges that exceed the statewide average for the charges, the per capita income of the municipality and any other factors as the department by rule may establish; and
- (B) Special circumstances of the water project.
- (d) The department may determine the amount of grant or loan funding on a case-by-case basis.
- (3) The moneys in the fund may also be used to assist the department in selling revenue bonds on behalf of municipalities in order to carry out the purposes of ORS 285B.560 to 285B.599.
- (4) *[With the approval of the State Treasurer,]* Moneys in the Water Fund may be invested as provided by ORS 293.701 to 293.820. The earnings from the investments and other program income shall be credited to the Water Fund.
- (5) The Water Fund shall consist of:
- (a) Moneys appropriated to the fund by the Legislative Assembly.
- (b) Moneys transferred to the fund by the Economic and Community Development Department from the Special Public Works Fund created by ORS 285B.455.
- (c) Moneys transferred to the Water Fund by the Water Resources Commission from the Water Development Fund created by Article XI-I(1) of the Oregon Constitution.
- (d) Moneys from any federal, state or other grants.
- (e) Proceeds of revenue bonds issued under ORS 285B.575.
- (f) Earnings on the Water Fund.
- (6) The department shall administer the fund.
- (7) The department shall adopt rules and policies for the administration of the fund. The department shall coordinate its rulemaking regarding safe drinking water projects with the Water Resources Department and the Department of Human Services. The rules adopted under this subsection for safe drinking water projects shall:
- (a) Require the installation of meters on all new active service connections from any distribution lines funded with moneys from the fund or from the proceeds of revenue bonds issued under ORS 285B.572 to 285B.578.
- (b) Require a plan, to be adopted by a municipality receiving financial assistance from the fund, for installation of meters on all service connections throughout the drinking water system not later than two years after the completion of a safe drinking water project.
- (8)(a) The Economic and Community Development Department shall manage the Water Fund and any expenditures from accounts in the fund and transfers between accounts so that the fund provides a continuing source of financing consistent with ORS 285B.413.
- (b) If necessary to ensure repayment of bonds issued under ORS 285B.560 to 285B.599, the department may reduce the value of the fund when the department:
- (A) Finds that without a reduction in fund value, bonds secured by the fund are likely to be in default; and
- (B) Imposes a moratorium on grants until the requirements of paragraph (a) of this subsection are satisfied.
- (9)(a) The department may charge administrative costs to the fund, but not to moneys segregated in the account created by subsection (11) of this section, to pay for administrative costs incurred by the department.

(b) To the extent permitted by federal law, administrative costs of the department may be paid from bond proceeds.

(10) The department may establish other accounts within the Water Fund for the payment of water projects costs, reserves, debt service payments, credit enhancements, costs of issuing revenue bonds, administrative costs and operating expenses or any other purpose necessary to carry out ORS 285B.560 to 285B.599.

(11) There is created within the Water Fund a separate and distinct account for the proceeds from the sale of water development general obligation bonds issued for safe drinking water projects and credited to the special account under this section. Any investment earnings thereon shall be segregated in and continuously appropriated to a special, separately accounted for subaccount of this account. Moneys credited to this account shall be maintained separate and distinct from moneys credited to subaccounts created under subsection (10) of this section. Notwithstanding ORS 285B.566 or subsection (4) of this section, all repayments of moneys loaned from the account created by this subsection, including interest on the moneys, shall be credited to the Water Development Administration and Bond Sinking Fund created by ORS 541.830.

(12) As used in this section, "administrative costs" include the department's direct and indirect costs for investigating and processing an application, developing a contract, monitoring the use of funds by a municipality, investigating and resolving a budget discrepancy, closing a project and providing financial and other assistance to a municipality.

**SECTION 108.** ORS 285B.575 is amended to read:

285B.575. *[If the State Treasurer determines that revenue bonds shall be issued:]*

(1) **At the request of the Economic and Community Development Department,** the State Treasurer may *[authorize and]* issue in the name of the State of Oregon revenue bonds secured by moneys paid to the Water Fund and pledged to finance or refinance in whole or in part the cost of a water project. The revenue bonds issued under this section shall be issued in the manner prescribed by ORS chapter 286, and refunding bonds may be issued to refinance the revenue bonds.

*[(2) The State Treasurer shall designate and enter into agreements with the underwriter to carry out the provisions of ORS 285B.560 to 285B.599. The Economic and Community Development Department, with the approval of the State Treasurer, shall designate the trustee and enter into appropriate agreements with the trustee to carry out the provisions of ORS 285B.560 to 285B.599. The department may appoint bond counsel as authorized by ORS 288.523, or the State Treasurer may enter into an agreement with bond counsel if the services provided under the agreement comply with the provisions of ORS 288.523 and the appointment is approved by the Attorney General as required by ORS 288.523. The department may not make an appointment or enter into an agreement under this subsection unless the State Treasurer has reviewed and approved the terms and conditions of the appointment or agreement. ORS 279A.140 does not apply to any appointment or agreement described in this subsection.]*

**(2) The department or the State Treasurer may appoint bond counsel as prescribed under section 20 of this 2007 Act.**

**SECTION 109.** ORS 285B.584 is amended to read:

285B.584. In addition to any other powers granted by law in relation to a water project, the Economic and Community Development Department<sup>1</sup>, *acting through the State Treasurer or the State Treasurer's designee,* may:

(1) Make all contracts, execute all instruments and do all things necessary or convenient for the exercise of the powers granted by this section, or for the performance of its covenants or duties, or in order to secure the payment of its bonds;

(2) Enter into and perform such contracts and agreements with municipalities as the department may consider proper and feasible for or concerning the planning, construction, installation, lease or other acquisition, and the financing of water projects; and

(3) Enter into covenants for the benefit of bond owners regarding the use and expenditure of moneys in the Water Fund.

**SECTION 109a.** ORS 286.025 is amended to read:

286.025. All moneys received under [ORS 286.020] **ORS 287.034 and section 5 of this 2007 Act** shall be deposited in the Miscellaneous Receipts Account established in the General Fund for the State Treasurer. The State Treasurer may [*draw warrants in payment of vouchers and drawn against the account in payment of costs*] **use moneys in the account for payment of expenses** of the State Treasurer [*or of costs of the financial institution appointed registrar as provided for in ORS 286.010 for printing, postage, postal insurance, and for all other expenses connected with the registration, re-registration or conversion to bearer form of*] **in connection with** bonds of the State of Oregon **or a public body as defined in section 42 of this 2007 Act.**

**SECTION 109b.** ORS 286.063 is amended to read:

286.063. (1) Notwithstanding any law limiting expenditures of a state agency, for the purpose of repaying [*or refinancing debt*] obligations of the state [*in order*] to obtain savings in total or periodic debt service payments, a law limiting expenditures does not apply to payments approved by the State Treasurer for administrative expenses, debt service or financing costs **that are** necessary or appropriate for the retirement or refunding of bonds[, *certificates of participation or financing agreements as defined in ORS 283.085*] unless the law limiting expenditures creates a specific exception to this section.

(2) The Oregon Department of Administrative Services may establish administrative limitations on the payment and recording of expenditures made pursuant to subsection (1) of this section.

(3) The Oregon Department of Administrative Services shall report incurred expenses and debt service savings resulting from actions taken under subsection (1) of this section that affect administrative expenses, debt service or financing costs paid with moneys out of the General Fund or lottery funds, within 90 days of taking action, to the Joint Committee on Ways and Means if the Legislative Assembly is in session or to the Emergency Board during the interim between legislative sessions.

**SECTION 110.** ORS 286.750 is amended to read:

286.750. (1) In accordance with the applicable provisions of this chapter [*and ORS chapter 288*], the State Treasurer, after consulting with the Director of the Oregon Department of Administrative Services, may issue Article XI-O bonds from time to time for the purposes described in ORS 286.735 (2).

(2) Article XI-O bonds may **be issued and sold as provided in this chapter.**[:]

[*(a) Be sold at a competitive or negotiated sale;*]

[*(b) Bear interest that is includable in or excludable from gross income under the Internal Revenue Code; and*]

[*(c) Be sold on terms approved by the State Treasurer, including terms related to the time of sale, the issuance of bonds in series, the maturity of each series and the interest borne by each series of bonds.*]

[*(3) Subject to the approval of the State Treasurer, the Director of the Oregon Department of Administrative Services may:*]

[*(a) Acquire municipal bond insurance, a letter of credit, a line of credit, surety bonds or another credit enhancement device for Article XI-O bonds; and*]

[*(b) Enter into related agreements.*]

[*(4) (3) Subject to the approval of the State Treasurer, the Director of the Oregon Department of Administrative Services may:*]

(a) Enter into agreements with a trustee or escrow agent regarding the use and application of the amounts held in the Article XI-O Bond Fund or the Article XI-O Bond Administration Fund; and

(b) Transfer amounts credited to the bond fund or the bond administration fund to a trustee or escrow agent.

**SECTION 111.** ORS 286.762 is amended to read:

286.762. (1) Article XI-M bonds are a general obligation of the State of Oregon and must contain a direct promise on behalf of the State of Oregon to pay the principal of, the interest on and the premium, if any, on the Article XI-M bonds. The State of Oregon shall pledge its full faith and credit

and taxing power to pay Article XI-M bonds, except that the ad valorem taxing power of the State of Oregon may not be pledged to pay Article XI-M bonds.

(2) The State Treasurer, with the concurrence of the Director of the Oregon Department of Administrative Services, may issue Article XI-M bonds[.]

*[(a)] as provided in this chapter, subject to the limit on bond issuance established for the particular biennium [in ORS 286.505 to 286.545] pursuant to section 9 of this 2007 Act and at the request of the Director of the Office of Emergency Management, for the purpose of financing all or a portion of the state share of costs to plan and implement seismic rehabilitation of public education buildings in the amount of the state share of costs, plus an amount determined by the State Treasurer to pay estimated bond-related costs.*

*[(b) To refund Article XI-M bonds. The amount of Article XI-M bonds issued under this paragraph may not exceed the estimated costs of paying, redeeming or defeasing the refunded bonds, plus an amount determined by the State Treasurer to pay estimated bond-related costs.]*

(3) The State Treasurer shall transfer the net proceeds of Article XI-M bonds issued for the purpose described in subsection (2)(a) of this section to the Office of Emergency Management for deposit in the Education Seismic Fund established under ORS 286.768.

**SECTION 111a.** ORS 286.768 is amended to read:

286.768. (1) The Education Seismic Fund is established in the State Treasury, separate and distinct from the General Fund. Amounts in the seismic fund may be invested as provided in ORS 293.701 to 293.820, and interest earned on the seismic fund must be credited to the seismic fund. Amounts credited to the seismic fund are continuously appropriated to the Office of Emergency Management for the purpose described in ORS 286.762 (2)[(a)] and for the purpose of paying bond-related costs. The office shall deposit in the seismic fund:

(a) The net proceeds of Article XI-M bonds transferred pursuant to ORS 286.762 (3);

(b) Amounts appropriated or otherwise provided by the Legislative Assembly for deposit in the seismic fund;

(c) Gifts, grants or contributions received by the office for the purpose described in ORS 286.762 (2)[(a)]; and

(d) Moneys received as repayment of, as a return on or in exchange for the grant or loan of net proceeds of Article XI-M bonds.

(2) The office may create separate accounts in the seismic fund as appropriate for the management of moneys in the seismic fund.

(3) The office and any other state agency or other entity receiving or holding net proceeds of Article XI-M bonds shall, at the direction of the Oregon Department of Administrative Services, take action necessary to maintain the excludability of interest on Article XI-M bonds from gross income under the Internal Revenue Code.

(4) The office shall transfer to the Article XI-M Bond Administration Fund the unexpended and uncommitted amounts remaining in the seismic fund if:

(a) Unexpended funds that are not contractually committed to a particular purpose remain in the seismic fund on the last day of the biennium; and

(b) Article XI-M bonds will be outstanding in the next biennium.

(5) The office may adopt rules to carry out this section including, but not limited to, establishing:

(a) Required contributions from applicants;

(b) Fees;

(c) Standards, terms and conditions under which moneys in the seismic fund may be granted, loaned or otherwise made available; and

(d) Procedures for distributing and monitoring the use of moneys from the seismic fund.

**SECTION 112.** ORS 286.782 is amended to read:

286.782. (1) Article XI-N bonds are a general obligation of the State of Oregon and must contain a direct promise on behalf of the State of Oregon to pay the principal of, the interest on and the premium, if any, on the Article XI-N bonds. The State of Oregon shall pledge its full faith and credit

and taxing power to pay Article XI-N bonds, except that the ad valorem taxing power of the State of Oregon may not be pledged to pay Article XI-N bonds.

(2) The State Treasurer, with the concurrence of the Director of the Oregon Department of Administrative Services, may issue Article XI-N bonds[:]

[(a)] **as provided in this chapter**, subject to the limit on bond issuance established for the particular biennium [in ORS 286.505 to 286.545] **pursuant to section 9 of this 2007 Act** and at the request of the Director of the Office of Emergency Management, for the purpose of financing all or a portion of the state share of costs to plan and implement seismic rehabilitation of emergency services buildings in the amount of the state share of costs, plus an amount determined by the State Treasurer to pay estimated bond-related costs.

[(b) *To refund Article XI-N bonds. The amount of Article XI-N bonds issued under this paragraph may not exceed the estimated costs of paying, redeeming or defeasing the refunded bonds, plus an amount determined by the State Treasurer to pay estimated bond-related costs.*]

(3) The State Treasurer shall transfer the net proceeds of Article XI-N bonds issued for the purpose described in subsection (2)(a) of this section to the Office of Emergency Management for deposit in the Emergency Services Seismic Fund established under ORS 286.788.

**SECTION 112a.** ORS 286.788 is amended to read:

286.788. (1) The Emergency Services Seismic Fund is established in the State Treasury, separate and distinct from the General Fund. Amounts in the seismic fund may be invested as provided in ORS 293.701 to 293.820, and interest earned on the seismic fund must be credited to the seismic fund. Amounts credited to the seismic fund are continuously appropriated to the Office of Emergency Management for the purpose described in ORS 286.782 (2)[(a)] and for the purpose of paying bond-related costs. The office shall deposit in the seismic fund:

(a) The net proceeds of Article XI-N bonds transferred pursuant to ORS 286.782 (3);

(b) Amounts appropriated or otherwise provided by the Legislative Assembly for deposit in the seismic fund;

(c) Gifts, grants or contributions received by the office for the purpose described in ORS 286.782 (2)[(a)]; and

(d) Moneys received as repayment of, as a return on or in exchange for the grant or loan of net proceeds of Article XI-N bonds.

(2) The office may create separate accounts in the seismic fund as appropriate for the management of moneys in the seismic fund.

(3) The office and any other state agency or other entity receiving or holding net proceeds of Article XI-N bonds shall, at the direction of the Oregon Department of Administrative Services, take action necessary to maintain the excludability of interest on Article XI-N bonds from gross income under the Internal Revenue Code.

(4) The office shall transfer to the Article XI-N Bond Administration Fund the unexpended and uncommitted amounts remaining in the seismic fund if:

(a) Unexpended funds that are not contractually committed to a particular purpose remain in the seismic fund on the last day of the biennium; and

(b) Article XI-N bonds will be outstanding in the next biennium.

(5) The office may adopt rules to carry out this section including, but not limited to, establishing:

(a) Required contributions from applicants;

(b) Fees;

(c) Standards, terms and conditions under which moneys in the seismic fund may be granted, loaned or otherwise made available; and

(d) Procedures for distributing and monitoring the use of moneys from the seismic fund.

**SECTION 113.** ORS 289.005 is amended to read:

289.005. As used in this chapter, unless the context requires otherwise:

(1) "Authority" means the Oregon Facilities Authority created by this chapter.

(2) “Bonds” or “revenue bonds” means [*revenue bonds, notes, bond anticipation notes and any other evidence of indebtedness of the authority issued under the provisions of this chapter, including revenue refunding bonds, notwithstanding that the same may be secured by any federally guaranteed security, whether acquired by the authority or by a participating institution, or by mortgage, the full faith and credit or by any other lawfully pledged security of one or more participating institutions*] **revenue bonds, as defined in section 2 of this 2007 Act.**

(3) “Cost” means the cost of:

(a) Construction, acquisition, alteration, enlargement, reconstruction and remodeling of a project, including all lands, structures, real or personal property, rights, rights of way, air rights, franchises, easements and interests acquired or used for or in connection with a project;

(b) Demolishing or removing any buildings or structures on land as acquired, including the cost of acquiring any lands to which such buildings or structures may be moved;

(c) All machinery and equipment;

(d) Financing charges, interest prior to, during and for a period after completion of construction and acquisition, reasonably required amounts to make the project operational, provisions for reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements;

(e) Architectural, actuarial engineering, financial and legal services, plans specifications, studies, surveys, estimates of costs and of revenues, administrative expenses, expenses necessary or incident to determining the feasibility or practicability of constructing the project; and

(f) Such other expenses as may be necessary or incident to a project, the financing of such project and the placing of the project in operation.

(4) “Cultural institution” means a public or nonprofit institution within this state which engages in the cultural, intellectual, scientific, environmental, educational or artistic enrichment of the people of this state. “Cultural institution” includes, without limitation, aquaria, botanical societies, historical societies, land conservation organizations, libraries, museums, performing arts associations or societies, scientific societies, wildlife conservation organizations and zoological societies. “Cultural institution” does not mean any school or any institution primarily engaged in religious or sectarian activities.

(5) “Health care institution” means a public or nonprofit organization that provides health care and related services, including but not limited to the provision of inpatient and outpatient care, diagnostic or therapeutic services, laboratory services, medicinal drugs, nursing care, assisted living, elderly care and housing, including retirement communities, and equipment used or useful for the provision of health care and related services.

(6) “Housing institution” means a public or nonprofit organization that provides decent, affordable housing to low income persons.

(7) “Institution” means an institution for housing, higher education or prekindergarten through grade 12 education, a school for the handicapped, a health care institution or a cultural institution within this state.

(8) “Institution for higher education” means a public or nonprofit educational institution within this state authorized by law to provide a program of education beyond the high school level, including community colleges and associate degree granting institutions. “Institution for higher education” does not mean any school or any institution primarily engaged in religious or sectarian activities.

(9) “Institution for prekindergarten through grade 12 education” means an Oregon prekindergarten as defined in ORS 329.170, a public educational institution within this state authorized by law to provide a program of education for kindergarten through grade 12 or a nonprofit educational institution within this state registered as a private school under ORS 345.545 that provides a program of education for prekindergarten through grade 12. “Institution for prekindergarten through grade 12 education” does not mean a school or institution primarily engaged in religious or sectarian activities.

(10) "Nonprofit" means an institution, organization or entity exempt from taxation under section 501(c)(3) of the Internal Revenue Code as amended and in effect on the effective date of this chapter.

(11) "Participating institution" means a participating institution for health care, housing, higher education, a participating school for the handicapped or a participating cultural institution.

(12)(a) "Project" means the financing or refinancing, including without limitation, acquisition, construction, enlargement, remodeling, renovation, improvement, furnishing or equipping, of the following:

(A) In the case of a participating institution that is an institution for higher education, an institution for prekindergarten through grade 12 education or a school for the handicapped, a structure or structures suitable for use as a dormitory or other multiunit housing facility for students, faculty, officers or employees, or a dining hall, student union, administration building, academic building, library, laboratory, research facility, classroom, athletic facility, health care facility, maintenance, storage or utility facility and other structures or facilities related to any of the structures required or used for the instruction of students, the conducting of research or the operation of an institution for higher education, an institution for prekindergarten through grade 12 education or a school for the handicapped. It shall also include landscaping, site preparation, furniture, equipment and machinery and other similar items necessary or convenient for the operation of a particular facility or structure in the manner for which its use is intended and shall further include any furnishings, equipment, machinery and other similar items necessary or convenient for the operation of an institution of higher education, an institution for prekindergarten through grade 12 education or a school for the handicapped, whether or not such items are related to a particular facility or structure financed under this chapter;

(B) In the case of a participating institution that is a housing institution, a structure or structures suitable for use as housing, including residences or multiunit housing facilities, administration buildings, maintenance, storage or utility facilities and other structures or facilities related to any of the structures required or used for the operation of the housing, including parking and other facilities or structures essential or convenient for the orderly provision of such housing. It shall also include landscaping, site preparation, furniture, equipment and machinery and other similar items necessary or convenient for the particular housing facility or structure in the manner for which its use is intended and shall further include any furnishings, equipment, machinery and other similar items necessary or convenient for the provision of housing, whether or not such items are related to a particular facility or structure financed under this chapter;

(C) In the case of a participating institution that is a cultural institution, a structure or structures suitable for its purposes, whether or not to be used to provide educational services, or research resources, including use as or in connection with an administrative facility, aquarium, assembly hall, auditorium, botanical garden, exhibition hall, gallery, greenhouse, library, museum, scientific laboratory, theater or zoological facility. It shall also include supporting facilities, landscaping, site preparation, furniture, equipment, machinery and other similar items necessary or convenient for the operation of a cultural institution, whether or not such items are related to a particular facility or structure financed under this chapter, including books, works of art or other items for display or exhibition; and

(D) In the case of a participating institution that is a health care institution, a structure or structures suitable for its purposes, including hospital facilities, inpatient and outpatient clinics, doctors' offices, administration buildings, parking, maintenance, storage or utility facilities, nursing care or assisted living facilities, elderly care and housing facilities, including retirement communities, and other structures or facilities related to any of the structures required or used for the operation of the health care institution, including other facilities or structures essential or convenient for the orderly provision of such health care. It shall also include landscaping, site preparation, furniture, equipment and machinery and other similar items necessary or convenient for the particular health care facility or structure in the manner for which its use is intended and shall further include any working capital, furnishings, equipment, machinery and other similar items necessary or convenient for the provision of health care, whether or not such items are related to a particular

facility or structure financed under this chapter, including borrowings needed to alleviate interim cash flow deficits of a health care institution.

(b) "Project" also includes any combination of one or more of the projects undertaken jointly by one or more participating institutions with each other or with other parties.

(c) "Project" does not include any facility used or to be used for sectarian instruction or as a place of religious worship or any facility which is used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination.

(13) "School for the handicapped" means a public or nonprofit primary, secondary or post-secondary school within this state which serves students at least 70 percent of whom are handicapped as determined by one or more appropriate education, rehabilitation, medical or mental health authorities; is accredited by a recognized accrediting body; and is determined by the authority to be a major resource of benefit to the handicapped. "School for the handicapped" does not mean any school or any institution primarily engaged in religious or sectarian activities.

**SECTION 114.** ORS 289.200 is amended to read:

289.200. (1) If the State Treasurer determines that revenue bonds should be issued:

(a) The State Treasurer may authorize and issue in the name of the State of Oregon revenue bonds secured by revenues from eligible projects to finance or refinance in whole or part the cost of acquisition, purchase, construction, reconstruction, installations improvement, betterment or extension of projects. The bonds shall be identified by project and issued in the manner prescribed by ORS [286.010, 286.020 and 286.105 to 286.135, and refunding bonds may be issued to refinance such revenue bonds] **chapter 286.**

(b) The State Treasurer shall designate the [*underwriter,*] trustee, **financial advisor** and bond counsel, if any, and enter into appropriate agreements with each to carry out the provisions of this chapter. An agreement with bond counsel designated by the State Treasurer under this section is subject to the provisions related to services provided by bond counsel under [ORS 288.523, and the appointment must be approved by the Attorney General as required by ORS 288.523] **section 20 of this 2007 Act. The powers conferred on a related agency under ORS chapter 286 do not apply to the Oregon Facilities Authority with respect to the designation of trustee, financial advisor and bond counsel.**

(2) Any trustee designated by the State Treasurer to carry out all or part of the powers specified in ORS 289.110 must agree to furnish financial statements and audit reports for each bond issue.

(3) The State Treasurer shall be the applicable elected representative for purposes of approving the issuance of revenue bonds under this chapter as to the extent such approval is required under section 147(f) of the Internal Revenue Code [*of 1986, as amended, or any successor provision thereto*].

(4) The State Treasurer shall collect data from the [*Oregon Facilities*] authority regarding the amount and nature of bonded indebtedness in Oregon health care institutions financed through the authority.

**SECTION 115.** ORS 289.205 is amended to read:

289.205. [*(1) In determining whether to issue revenue bonds under this chapter, the State Treasurer shall consider:*]

[*(a) The bond market for the types of bonds proposed for issuance.*]

[*(b) The terms and conditions of the proposed issue.*]

[*(c) Such other relevant factors as the State Treasurer considers necessary to protect the financial integrity of the state.*]

[*(2) Bonds authorized under this chapter shall be issued in accordance with the provisions of ORS 288.515 to 288.550.*]

[*(3) Reasonable administrative expenses of the State Treasurer shall be charged against bond proceeds or project revenues.*]

**SECTION 116.** ORS 293.824 is amended to read:

293.824. (1) As used in this section:

(a) "Council" means the Oregon Investment Council.

[*b*] “Governmental unit” has the meaning given the term under ORS 288.150.]

[*c*] (**b**) “Investor” means an entity which deposits proceeds with the State Treasurer for investment in a pool.

[*d*] (**c**) “Pool” means a fund or account established by the State Treasurer for the investment of proceeds for one or more investors, pursuant to this section.

(**d**) “Public body” has the meaning given that term in section 42 of this 2007 Act.

(e) “Proceeds” means funds obtained from the sale of tax-exempt obligations, and other funds which secure, or are held to pay debt service on, tax-exempt obligations.

(f) “Tax-exempt obligations” means bonds, notes, certificates or other obligations, the interest on which is excluded from gross income under the United States Internal Revenue Code.

(2) In addition to the other powers granted to the State Treasurer, the State Treasurer may create one or more pools for the investment of proceeds. The pools shall be separate and distinct from the General Fund. Amounts in a pool shall be invested under the standards for investment of state funds which are provided in ORS 293.701 to 293.820. However, the investment objective for the pools shall be to make the amounts therein as productive to the investor as is administratively reasonable, taking into account restrictions imposed by the United States on the investment of the proceeds and the ability of the investor to retain investment earnings for its benefit. Amounts in a pool shall be invested according to policies established by the Oregon Investment Council. ORS 293.820 shall not apply to investments of amounts in a pool. The State Treasurer or the council may enter into agreements with investors regarding the investment of proceeds in a pool authorized by this section and may take other action reasonably required to establish and operate pools for the investment of proceeds in a manner which reduces the burden on investors of complying with federal arbitrage laws.

(3) The State Treasurer or the council may contract for trust, investment management, legal, accounting, financial advisory and other services with respect to the funds invested in a pool. Costs of the services may be paid from earnings on proceeds invested in a pool, from fees charged to investors or from any other legally available funds. The State Treasurer may charge investors fees for deposit or withdrawal of amounts from a pool. The fees shall not exceed the State Treasurer’s reasonable estimate of the costs of creating and operating the pool.

(4) The State Treasurer shall establish policies and procedures for the allocation of pool expenses, earnings and losses among investors in a pool, and for the deposit and withdrawal of amounts in a pool. Net earnings on amounts in pools shall be distributed among investors in accordance with the policies and procedures established by the State Treasurer.

(5) The State of Oregon, its agencies, [*governmental units*] **public bodies** and trustees which hold proceeds may invest proceeds through the State Treasurer in a pool.

**SECTION 117.** ORS 294.052 is amended to read:

294.052. (1) As used in this section:

(a) “Bond” has the meaning given that term in [*ORS 288.605*] **section 42 of this 2007 Act.**

[*b*] “Certificate of participation” has the meaning given that term in ORS 288.605.]

[*c*] (**b**) “Municipality” means a unit of local government within Oregon including, but not limited to, cities, counties, school districts, special districts, public corporations and intergovernmental corporations organized under the authority of ORS 190.010.

(2) Notwithstanding ORS 294.135 or 294.145 or any other law or charter provision, a municipality may invest proceeds of bonds [*or certificates of participation*] and amounts held in a bond [*or certificate of participation*] payment[, reserve or proceeds fund or account in float agreements, debt service deposit agreements, forward investment agreements, guaranteed investment contracts or other investment agreements if the agreements or contracts:

(a) Produce a guaranteed rate of return;

(b) Are fully collateralized by direct obligations of, or obligations guaranteed by, the United States; and

(c) Require that the collateral be held by the municipality, an agent of the municipality or a third-party safekeeping agent.

**SECTION 118.** ORS 294.326 is amended to read:

294.326. (1) Except as provided in subsections (3) to (11) of this section, it is unlawful for any municipal corporation to expend money or to certify to the assessor an ad valorem tax rate or estimated amount of ad valorem taxes to be imposed in any year unless the municipal corporation has complied with ORS 294.305 to 294.565.

(2) To the extent that any of subsections (3) to (11) of this section apply in a given case, the municipal corporation need not comply with ORS 294.305 to 294.565.

(3) Subsection (1) of this section does not apply to the expenditure in the year of receipt of grants, gifts, bequests or devises transferred to a municipal corporation in trust for specific purposes or to other special purpose trust funds at the disposal of municipal corporations. However, subsection (1) of this section does apply to the expenditure of grants, gifts, bequests or devises transferred to a municipal corporation for undesignated general purposes or to the expenditure of grants, gifts, bequests or devises transferred to a municipal corporation in trust for specific purposes which were received in a prior year. Expenditure of grants, gifts, bequests and devises exempt from subsection (1) of this section by this subsection is lawful only after enactment by the governing body of the municipal corporation of appropriation ordinances or resolutions authorizing the expenditure.

(4) Subsection (1) of this section does not apply whenever the governing body of a municipal corporation has declared the existence of an unforeseen occurrence or condition which could not have been foreseen at the time of the preparation of the budget for the current year or current budget period or could not have foreseen a pressing necessity for the expenditure or has received a request for services or facilities, the cost of which is supplied by a private individual, corporation or company or by another governmental unit necessitating a greater expenditure of public money for any specific purpose or purposes than the amount budgeted in order to provide the services for which the governing body of the municipal corporation was responsible. The governing body may make excess expenditures for the specific purpose or purposes beyond the amount budgeted and appropriated to the extent that maintenance, repair or self-insurance reserves authorized by ORS 294.366 or nontax funds are available or may be made available. The expenditures are lawful only after the enactment of appropriate appropriation ordinances or resolutions authorizing the expenditures. The ordinance or resolution must state the need for the expenditure, the purpose for the expenditure and the amount appropriated.

(5) Subsection (1) of this section does not apply to the expenditure during the current year or current budget period of the proceeds of the sale of the following bonds [*or other obligations*], **as defined in section 42 of this 2007 Act**, or to the expenditure during the current year or current budget period of other funds to pay debt service on [*the following*] **those** bonds [*or other obligations*]:

(a) Bonds that are issued under [*the Uniform Revenue Bond Act, ORS 288.805 to 288.945,*] **section 46 of this 2007 Act** and for which the referral period described in [*ORS 288.815*] **section 46 of this 2007 Act** ended after the preparation of the budget of the current year or current budget period;

(b) Bonds [*or other obligations*] that were approved by the electors during the current year or current budget period; or

(c) Bonds [*or other obligations*] issued during the current year or current budget period to refund previously issued bonds or obligations.

(6) Subsection (1) of this section does not apply to:

(a) Expenditures of funds received from the sale of conduit revenue bonds or other borrowings issued for private business entities or nonprofit corporations by [*cities, counties, county service districts, port districts, special districts, the Port of Portland*] **public bodies, as defined in section 42 of this 2007 Act**, or the State of Oregon or to pay debt service on the bonds;

(b) Expenditures of funds that have been irrevocably placed in escrow for the purpose of defeasing and paying bonds [*or other borrowings*];

(c) Expenditures of assessments or other revenues to redeem bonds [*or other obligations*] that are payable from the assessments or other revenues, when the assessments or other revenues are received as a result of prepayments or other unforeseen circumstances; or

(d) Expenditures of funds that are held as debt service reserves for bonds [*or other borrowings*] if the expenditures are made to:

(A) Pay debt service on the bonds [*or other borrowings*];

(B) Redeem the bonds [*or other borrowings*]; or

(C) Fund an escrow or trust account to defease or pay the bonds [*or other borrowings*].

(7) Subsection (1) of this section does not apply to expenditures of funds received from assessments against benefited property for local improvements as defined in ORS 223.001 to the extent that the cost of the improvements is to be paid by owners of benefited property.

(8) Subsection (1) of this section does not apply to the expenditure of funds accumulated to pay deferred employee compensation.

(9) Subsection (1) of this section does not apply to refunds or the interest on refunds granted by counties under ORS 311.806.

(10) Subsection (1) of this section does not apply to refunds received by a municipal corporation when purchased items are returned after an expenditure has been made. Expenditure of refunded amounts to which this subsection applies is lawful only after the governing body of the municipal corporation has enacted, after public hearing, appropriate appropriation ordinances or resolutions authorizing the expenditure.

(11) Subsection (1) of this section does not apply to a newly formed municipal corporation during the fiscal year in which it was formed. If a new municipal corporation is formed between March 1 and June 30, subsection (1) of this section does not apply to the municipal corporation during the fiscal year immediately following the fiscal year in which it was formed.

**SECTION 119.** ORS 294.386 is amended to read:

294.386. Each municipal corporation shall prepare a financial summary. The financial summary shall include:

(1) A summary statement by funds showing the estimate of budget resources and the estimate of expenditures;

(2) A classified statement of outstanding indebtedness, but not including indebtedness that has been defeased [*and is no longer considered to be outstanding*] as provided in [*ORS 288.675*] **section 64 of this 2007 Act**;

(3) A classified statement of all indebtedness authorized but not incurred; and

(4) A summary statement of the estimate of ad valorem property taxes, stated in dollars and cents and also stated as an estimated tax rate per thousand dollars of assessed value.

**SECTION 120.** ORS 294.443 is amended to read:

294.443. In the exercise of the authority granted by ORS [*288.165,*] 328.565 and 341.715 **and section 47 of this 2007 Act**, specific provision for interest must be contained in duly adopted budgets. However, reporting of anticipated loan proceeds and related principal repayments within a particular fiscal year or budget period may be accomplished in narrative form or by footnoted schedules to the duly adopted budget and need not be included as a budgetary resource or requirement. Such narrative or footnoted disclosure must indicate that principal repayments are a liability of the applicable fund from which they are made.

**SECTION 121.** ORS 294.483 is amended to read:

294.483. [*(1) A municipal corporation that has outstanding limited tax bonds, as defined in ORS 288.150, that were issued pursuant to ORS 287.049 shall budget and appropriate, subject to any applicable covenants or agreements that limit payment of certain obligations to particular sources of funds, amounts sufficient to pay, in each succeeding fiscal year or budget period, debt service on the bonds. However, this section does not require the municipal corporation to adopt a supplemental budget to pay the principal and interest coming due on limited tax bonds in the fiscal year or budget period in which the bonds are authorized and issued.*]

[(2)] A municipal corporation is not required to adopt a supplemental budget to:

[(a)] (1) Expend during the current year or current budget period proceeds of the sale of the following bonds or other obligations:

[(A)] (a) Bonds that are issued under [*the Uniform Revenue Bond Act, ORS 288.805 to 288.945,*] **section 46 of this 2007 Act and** for which the referral period described in [*ORS 288.815*] **section 46 of this 2007 Act** ended after the preparation of the budget for the current year or current budget period.

[(B)] (b) Bonds or other obligations that were approved by the electors during the current year or current budget period.

[(C)] (c) Bonds or other obligations issued during the current year or current budget period to refund previously issued bonds or obligations.

[(b)] (2) Expend during the current year or current budget period other funds to pay the principal and interest coming due on bonds or other obligations listed in [*paragraph (a) of this*] subsection (1) **of this section.**

[(c)] (3) Expend assessments or other revenues to redeem bonds or other obligations that are payable from the assessments or other revenues, when the assessments or other revenues are received as a result of prepayments or other unforeseen circumstances.

**SECTION 122.** ORS 294.820 is amended to read:

294.820. If the State Treasurer and the Oregon Investment Council terminate the operation of all investment pools created under ORS 293.824, [*governmental units, as defined in ORS 288.150,*] **public bodies, as defined in section 42 of this 2007 Act,** may establish by written agreement under ORS chapter 190 one or more pools for the investment of proceeds for the purposes identified in ORS 293.822. In establishing one or more such pools, the participating [*governmental units*] **public bodies** may exercise those powers conferred on the State Treasurer and the Oregon Investment Council by ORS 293.824.

**SECTION 122a.** ORS 294.840 is amended to read:

294.840. Subject to the objective set forth in ORS 294.831 and the standards set forth in ORS 294.835, the Oregon Investment Council shall formulate policies for the investment and reinvestment of moneys in the investment pool and the acquisition, retention, management and disposition of investments of the investment pool. The council, from time to time, shall review those policies and make changes therein as it considers necessary or desirable. The council may formulate separate policies for any funds from any single [*governmental unit*] **public body** included in the investment pool.

**SECTION 122b.** ORS 294.870 is amended to read:

294.870. (1) The investment officer shall keep, for each [*governmental unit*] **public body** with funds in the investment pool, a separate account, which shall record the individual amounts and the totals of all investments of its moneys in the investment pool.

(2) The investment officer shall report monthly to the local government official of a [*governmental unit*] **public body** with funds in the investment pool the changes in its account made during the preceding month for the investment pool. The investment officer shall also furnish a financial report monthly to each participating governmental unit investor in the local government investment pool. The financial report shall include, but not be limited to, such comparative data for the preceding six months operation of the investment pool as will provide a basis for analyzing trends and comparing operating results and financial position. A monthly statement shall be distributed within 30 days after the end of that month.

**SECTION 122c.** ORS 294.880 is amended to read:

294.880. An examination and audit of the investment pool shall be made separately from the audit of the treasurer for submission to the Oregon Investment Council, local [*governmental units which*] **public bodies that** are investors in the pool, the Legislative Assembly and the board at least once a year and at other times as the council may require. An audit report shall be submitted to the individuals and [*units*] **public bodies** specified within 60 days after the end of the fiscal year or as soon as practical. The report shall include a statement prepared by the State Treasurer of the investment rules governing investments authorized by the council.

**SECTION 123.** ORS 295.005 is amended to read:

295.005. As used in ORS 295.005 to 295.165, unless the context requires otherwise:

(1) "Certificate of participation" or "certificate" means a nonnegotiable document issued by a pool manager to a public official.

(2) "Custodian bank" or "custodian" means the following institutions designated by the depository bank for its own account:

(a) The Federal Reserve Bank designated to serve this state, or any branch of that bank;

(b) The Federal Home Loan Bank designated to serve this state, or any branch of that bank;

(c) Any insured institution or trust company, as those terms are defined in ORS 706.008, that is authorized to accept deposits or transact trust business in this state and that complies with ORS 295.008; and

(d) The fiscal agency of the State of Oregon, duly appointed and acting as such agency pursuant to [ORS 288.010 to 288.110] **section 21 of this 2007 Act.**

(3) "Custodian's receipt" or "receipt" means a document issued by a custodian bank to a pool manager describing the securities deposited with it by a depository bank to secure public fund deposits.

(4) "Depository bank" or "depository" means an insured institution or trust company, as those terms are defined in ORS 706.008, a credit union, as defined in ORS 723.006, the shares and deposits of which are insured by the National Credit Union Share Insurance Fund, or a federal credit union, if the institution, trust company or credit union:

(a) Maintains a head office or a branch in this state in the capacity of an insured institution, trust company, credit union or federal credit union; and

(b) In the case of an insured institution or trust company, complies with ORS 295.008.

(5) "Pool manager" means:

(a) The State Treasurer;

(b) Any insured institution or trust company, as those terms are defined in ORS 706.008, a credit union, as defined in ORS 723.006, the shares and deposits of which are insured by the National Credit Union Share Insurance Fund, or a federal credit union, if the institution, trust company or credit union:

(A) Is authorized to accept deposits or transact trust business in this state; and

(B) In the case of an insured institution or trust company, complies with ORS 295.008;

(c) The Federal Reserve Bank designated to serve this state, or any branch of that bank; or

(d) The Federal Home Loan Bank designated to serve this state, or any branch of that bank.

(6) "Public funds" or "funds" means funds under the control or in the custody of a public official by virtue of office.

(7) "Security" or "securities" means:

(a) Obligations of the United States, including those of its agencies and instrumentalities;

(b) Obligations of the International Bank for Reconstruction and Development;

(c) Bonds of any state of the United States:

(A) That are rated in one of the four highest grades by a recognized investment service organization that has been engaged regularly and continuously for a period of not less than 10 years in rating state and municipal bonds; or

(B) Having once been so rated are ruled to be eligible securities for the purposes of ORS 295.005 to 295.165, notwithstanding the loss of such rating;

(d) Bonds of any county, city, school district, port district or other public body in the United States payable from ad valorem taxes levied generally on substantially all property within the issuing body and that meet the rating requirement or are ruled to be eligible securities as provided in paragraph (c) of this subsection;

(e) Bonds of any county, city, school district, port district or other public body issued pursuant to the Constitution or statutes of the State of Oregon or the charter or ordinances of any county or city within the State of Oregon, if the issuing body has not been in default with respect to the

payment of principal or interest on any of its bonds within the preceding 10 years or during the period of its existence if that is less than 10 years;

(f) Bond anticipation notes issued, sold or assumed by an authority under ORS 441.560;

(g) One-family to four-family housing mortgage loan notes related to property situated in the State of Oregon, which are owned by a depository bank, no payment on which is more than 90 days past due, and which are eligible collateral for loans from the Federal Reserve Bank of San Francisco under section 10(b) of the Federal Reserve Act and regulations thereunder;

(h) Bonds, notes, letters of credit or other securities or evidence of indebtedness constituting the direct and general obligation of a federal home loan bank or Federal Reserve bank;

(i) Debt obligations of domestic corporations that are rated in one of the three highest grades by a recognized investment service organization that has been engaged regularly and continuously for a period of not less than 10 years in rating corporate debt obligations;

(j) Collateralized mortgage obligations and real estate mortgage investment conduits that are rated in one of the two highest grades by a recognized investment service organization that has been engaged regularly and continuously for a period of not less than 10 years in rating corporate debt obligations; and

(k) One-family to four-family housing mortgages that have been secured by means of a guarantee as to full repayment of principal and interest by an agency of the United States Government, including the Government National Mortgage Association, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(8) "Public official" means each officer or employee of this state or any agency, political subdivision or public or municipal corporation thereof who by law is made the custodian of or has control of any public funds.

(9) "Value" means the current market value of securities.

**SECTION 124.** ORS 295.011 is amended to read:

295.011. (1) The following public funds are not subject to the provisions of ORS 295.005 to 295.165:

(a) Funds that are deposited for the purpose of paying principal, interest or premium, if any, on bonds, [*like borrowings*] **as defined in sections 2 and 42 of this 2007 Act**, and related costs or securing a borrowing related to an agreement for exchange of interest rates entered into under [*ORS 287.025*] **section 10 or 53 of this 2007 Act**.

(b) Funds that are invested in authorized investments under provisions of law other than ORS 295.005 to 295.165. Funds invested under ORS 293.701 to 293.820 are invested in authorized investments for purposes of this subsection from the time the funds are transferred by the State Treasurer to a third party under the terms of a contract for investment or administration of the funds that requires such a transfer until the time the funds are returned to the treasurer or paid to another party under the terms of the contract.

(c) Negotiable certificates of deposit purchased by the State Treasurer under ORS 293.736 or by an investment manager under ORS 293.741.

(2) Notwithstanding subsection (1) of this section, funds deposited by a custodial officer under ORS 294.035 (3)(d) are subject to the provisions of ORS 295.005 to 295.165.

**SECTION 125.** ORS 310.140 is amended to read:

310.140. The Legislative Assembly finds that section 11b, Article XI of the Oregon Constitution, was drafted by citizens and placed before the voters of the State of Oregon by initiative petition. Section 11b, Article XI of the Oregon Constitution, uses terms that do not have established legal meanings and require definition by the Legislative Assembly. Section 11b, Article XI of the Oregon Constitution, was amended by section 11 (11), Article XI of the Oregon Constitution. This section is intended to interpret the terms of section 11b, Article XI of the Oregon Constitution, as originally adopted and as amended by section 11 (11), Article XI of the Oregon Constitution, consistent with the intent of the people in adopting these provisions, so that the provisions of section 11b, Article XI of the Oregon Constitution, may be given effect uniformly throughout the State of Oregon, with minimal confusion and misunderstanding by citizens and affected units of government. As used in

the revenue and tax laws of this state, and for purposes of section 11b, Article XI of the Oregon Constitution:

(1) "Actual cost" means all direct or indirect costs incurred by a government unit in order to deliver goods or services or to undertake a capital construction project. The "actual cost" of providing goods or services to a property or property owner includes the average cost or an allocated portion of the total amount of the actual cost of making a good or service available to the property or property owner, whether stated as a minimum, fixed or variable amount. "Actual cost" includes, but is not limited to, the costs of labor, materials, supplies, equipment rental, property acquisition, permits, engineering, financing, reasonable program delinquencies, return on investment, required fees, insurance, administration, accounting, depreciation, amortization, operation, maintenance, repair or replacement and debt service, including debt service payments or payments into reserve accounts for debt service and payment of amounts necessary to meet debt service coverage requirements.

(2) "Assessment for local improvement" means any tax, fee, charge or assessment that does not exceed the actual cost incurred by a unit of government for design, construction and financing of a local improvement.

(3) "Bonded indebtedness" means any formally executed written agreement representing a promise by a unit of government to pay to another a specified sum of money, at a specified date or dates at least one year in the future.

(4) "Capital construction":

(a) For bonded indebtedness issued prior to December 5, 1996, and for the proceeds of any bonded indebtedness approved by electors prior to December 5, 1996, that were spent or contractually obligated to be spent prior to June 20, 1997, means the construction, modification, replacement, repair, remodeling or renovation of a structure, or addition to a structure, that is expected to have a useful life of more than one year, and includes, but is not limited to:

(A) Acquisition of land, or a legal interest in land, in conjunction with the capital construction of a structure.

(B) Acquisition, installation of machinery or equipment, furnishings or materials that will become an integral part of a structure.

(C) Activities related to the capital construction, including planning, design, authorizing, issuing, carrying or repaying interim or permanent financing, research, land use and environmental impact studies, acquisition of permits or licenses or other services connected with the construction.

(D) Acquisition of existing structures, or legal interests in structures, in conjunction with the capital construction.

(b) For bonded indebtedness issued on or after December 5, 1996, except for the proceeds of any bonded indebtedness approved by electors prior to December 5, 1996, that were spent or contractually obligated to be spent before June 20, 1997, has the meaning given that term in paragraph (a) of this subsection, except that "capital construction":

(A) Includes public safety and law enforcement vehicles with a projected useful life of five years or more; and

(B) Does not include:

(i) Maintenance and repairs, the need for which could be reasonably anticipated;

(ii) Supplies and equipment that are not intrinsic to the structure; or

(iii) Furnishings, unless the furnishings are acquired in connection with the acquisition, construction, remodeling or renovation of a structure, or the repair of a structure that is required because of damage or destruction of the structure.

(5) "Capital improvements":

(a) For bonded indebtedness issued prior to December 5, 1996, and for the proceeds of any bonded indebtedness approved by electors before December 5, 1996, that were spent or contractually obligated to be spent before June 20, 1997, means land, structures, facilities, **personal property that is functionally related and subordinate to real property**, [as that term is defined in ORS 288.805,] machinery, equipment or furnishings having a useful life longer than one year.

(b) For bonded indebtedness issued on or after December 5, 1996, except for the proceeds of any bonded indebtedness approved by electors prior to December 5, 1996, that were spent or contractually obligated to be spent before June 20, 1997, has the meaning given that term in paragraph (a) of this subsection, except that “capital improvements”:

(A) Includes public safety and law enforcement vehicles with a projected useful life of five years or more; and

(B) Does not include:

(i) Maintenance and repairs, the need for which could be reasonably anticipated;

(ii) Supplies and equipment that are not intrinsic to the structure; or

(iii) Furnishings, unless the furnishings are acquired in connection with the acquisition, construction, remodeling or renovation of a structure, or the repair of a structure that is required because of damage or destruction of the structure.

(6) “Direct consequence of ownership” means that the obligation of the owner of property to pay a tax arises solely because that person is the owner of the property, and the obligation to pay the tax arises as an immediate and necessary result of that ownership without respect to any other intervening transaction, condition or event.

(7)(a) “Exempt bonded indebtedness” means:

(A) Bonded indebtedness authorized by a specific provision of the Oregon Constitution;

(B) Bonded indebtedness incurred or to be incurred for capital construction or capital improvements that was issued as a general obligation of the issuing governmental unit on or before November 6, 1990;

(C) Bonded indebtedness incurred or to be incurred for capital construction or capital improvements that was issued as a general obligation of the issuing governmental unit after November 6, 1990, with the approval of the electors of the issuing governmental unit; or

(D) Bonded indebtedness incurred or to be incurred for capital construction or capital improvements, if the issuance of the bonds is approved by voters on or after December 5, 1996, in an election that is in compliance with the voter participation requirements of section 11 (8), Article XI of the Oregon Constitution.

(b) “Exempt bonded indebtedness” includes bonded indebtedness issued to refund or refinance any bonded indebtedness described in paragraph (a) of this subsection.

(8)(a) “Incurred charge” means a charge imposed by a unit of government on property or upon a property owner that does not exceed the actual cost of providing goods or services and that can be controlled or avoided by the property owner because:

(A) The charge is based on the quantity of the goods or services used, and the owner has direct control over the quantity;

(B) The goods or services are provided only on the specific request of the property owner; or

(C) The goods or services are provided by the government unit only after the individual property owner has failed to meet routine obligations of ownership of the affected property, and such action is deemed necessary by an appropriate government unit to enforce regulations pertaining to health or safety.

(b) For purposes of this subsection, an owner of property may control or avoid an incurred charge if the owner is capable of taking action to affect the amount of a charge that is or will be imposed or to avoid imposition of a charge even if the owner must incur expense in so doing.

(c) For purposes of paragraph (a)(A) of this subsection, an owner of property has direct control over the quantity of goods or services if the owner of property has the ability, whether or not that ability is exercised, to determine the quantity of goods or services provided or to be provided.

(9)(a) “Local improvement” means a capital construction project, or part thereof, undertaken by a local government, pursuant to ORS 223.387 to 223.399, or pursuant to a local ordinance or resolution prescribing the procedure to be followed in making local assessments for benefits from a local improvement upon the lots that have been benefited by all or a part of the improvement:

(A) That provides a special benefit only to specific properties or rectifies a problem caused by specific properties;

(B) The costs of which are assessed against those properties in a single assessment upon the completion of the project; and

(C) For which the property owner may elect to make payment of the assessment plus appropriate interest over a period of at least 10 years.

(b) For purposes of paragraph (a) of this subsection, the status of a capital construction project as a local improvement is not affected by the accrual of a general benefit to property other than the property receiving the special benefit.

(10) "Maintenance and repairs, the need for which could be reasonably anticipated":

(a) Means activities, the type of which may be deducted as an expense under the provisions of the federal Internal Revenue Code, as amended and in effect on December 31, 2004, that keep the property in ordinarily efficient operating condition and that do not add materially to the value of the property nor appreciably prolong the life of the property;

(b) Does not include maintenance and repair of property that is required by damage, destruction or defect in design, or that was otherwise not reasonably expected at the time the property was constructed or acquired, or the addition of material that is in the nature of the replacement of property and that arrests the deterioration or appreciably prolongs the useful life of the property; and

(c) Does not include street and highway construction, overlay and reconstruction.

(11) "Projected useful life" means the useful life, as reasonably estimated by the unit of government undertaking the capital construction or capital improvement project, beginning with the date the property was acquired, constructed or reconstructed and based on the property's condition at the time the property was acquired, constructed or reconstructed.

(12) "Routine obligations of ownership" means a standard of operation, maintenance, use or care of property established by law, or if established by custom or common law, a standard that is reasonable for the type of property affected.

(13) "Single assessment" means the complete assessment process, including preassessment, assessment or reassessment, for any local improvement authorized by ORS 223.387 to 223.399, or a local ordinance or resolution that provides the procedure to be followed in making local assessments for benefits from a local improvement upon lots that have been benefited by all or part of the improvement.

(14) "Special benefit only to specific properties" shall have the same meaning as "special and peculiar benefit" as that term is used in ORS 223.389.

(15) "Specific request" means:

(a) An affirmative act by a property owner to seek or obtain delivery of goods or services;

(b) An affirmative act by a property owner, the legal consequence of which is to cause the delivery of goods or services to the property owner; or

(c) Failure of an owner of property to change a request for goods or services made by a prior owner of the property.

(16) "Structure" means any temporary or permanent building or improvement to real property of any kind that is constructed on or attached to real property, whether above, on or beneath the surface.

(17) "Supplies and equipment intrinsic to a structure" means the supplies and equipment that are necessary to permit a structure to perform the functions for which the structure was constructed, or that will, upon installation, constitute fixtures considered to be part of the real property that is comprised, in whole or part, of the structure and land supporting the structure.

(18) "Tax on property" means any tax, fee, charge or assessment imposed by any government unit upon property or upon a property owner as a direct consequence of ownership of that property, but does not include incurred charges or assessments for local improvements. As used in this subsection, "property" means real or tangible personal property, and intangible property that is part of a unit of real or tangible personal property to the extent that such intangible property is subject to a tax on property.

**SECTION 126.** ORS 316.056 is amended to read:

316.056. In addition to the modifications to federal taxable income contained in this chapter, there shall be subtracted from federal taxable income the interest or dividends on obligations of [counties, cities, districts, ports or other public or municipal corporations or political subdivisions of this state] **the State of Oregon or a public body, as defined in section 42 of this 2007 Act**, to the extent includable in gross income for federal income tax purposes. However, the amount subtracted under this section shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this section, and by any expenses incurred in the production of interest or dividend income described in this section.

**SECTION 127.** ORS 327.705 is amended to read:

327.705. The Legislative Assembly declares that the purpose of ORS 327.700 to 327.711 is to authorize lottery bonds for state education projects. The lottery bonds authorized by ORS 327.700 to 327.711 shall be issued pursuant to ORS 286.560 to 286.580 [and 348.716]. The obligation of the State of Oregon with respect to the lottery bonds and with respect to any grant agreement or other commitment authorized by ORS 327.700 to 327.711, 327.731, 348.696 and 777.277 shall at all times be restricted to the availability of unobligated net lottery proceeds, proceeds of lottery bonds and any other amounts specifically committed by ORS 286.560 to 286.580 [and 348.716]. Neither the faith and credit of the State of Oregon nor any of its taxing power shall be pledged or committed to the payment of lottery bonds or any other commitment of the State of Oregon authorized by ORS 327.700 to 327.711.

**SECTION 128.** ORS 328.230 is amended to read:

328.230. If the electors of the district approve the contracting of bonded indebtedness, the [board of directors, without further vote of the electors, shall issue negotiable coupon bonds of the district, at such time or times as the board directs] **bonds shall be issued as prescribed in ORS chapter 287.**

**SECTION 129.** ORS 328.280 is amended to read:

328.280. (1) Whenever any school district has any outstanding negotiable interest-bearing warrant indebtedness or bonded indebtedness incurred in building or furnishing any schoolhouse, or for the purchase of any schoolhouse site, or in refunding bonded indebtedness, or in funding warrant indebtedness, which is due or subject at the option of the school district to be paid or redeemed, the school district, by and through its district school board, may:

(a) Issue and exchange, for any such indebtedness, its bonds bearing interest at a rate determined by the district school board; or

(b) Issue and sell such bonds and apply the proceeds of such sale in payment of the indebtedness for the payment of which the refunding bonds are proposed to be issued.

(2) Refunding bonds issued under subsection (1) of this section shall in all respects conform to, and be governed, as to their issue, by the provisions of [ORS 287.008, 328.210 and 328.230 to 328.250] **ORS chapter 287.**

(3) [The refunding of indebtedness and issuing of bonds for such purpose shall not require an election, but may be done by resolution of the district school board at any legally called board meeting.] The debt limitations imposed by law shall not affect the right of any school district to issue refunding bonds under authority of this section. The validity of any bonds so issued, or of the indebtedness thereby refunded, shall not thereafter be open to contest by the school district or by any person for any reason [whatever].

**SECTION 130.** ORS 328.295 is amended to read:

328.295. All school bonds, including funding and refunding bonds, notes and negotiable interest-bearing warrants which have been specifically authorized by vote of the electors, shall be [advertised for sale and sold in the manner prescribed in ORS 287.014 to 287.022] **issued as prescribed in ORS chapter 287.**

**SECTION 131.** ORS 328.321 is amended to read:

328.321. As used in ORS 328.321 to 328.356:

(1) "Common School Fund" means the state school fund described in section 2, Article VIII, Oregon Constitution.

(2) "General obligation bond" has the meaning given that term in [ORS 288.150] **section 42 of this 2007 Act.**

(3) "Paying agent" means the corporate paying agent selected by the school district board for a school bond issue who is:

- (a) Duly qualified; and
- (b) Acceptable to the State Treasurer.

(4) "School bond" means any general obligation bond issued by a school district.

(5) "School district" means a common or union high school district, an education service district or a community college district.

(6) "State bonds" means those general obligation bonds issued by the State of Oregon to meet its obligations under the state guaranty as described in ORS 328.351.

(7) "State guaranty" means the pledge of the full faith and credit and taxing power of the State of Oregon to guarantee payment of eligible school bonds as set forth in ORS 328.321 to 328.356.

**SECTION 132.** ORS 328.351 is amended to read:

328.351. (1) If, at the time the state is required to make a debt service payment under the state guaranty on behalf of a school district, sufficient moneys of the state are not on hand and available for that purpose, the State Treasurer may, singly or in any combination:

(a) Obtain from the Common School Fund or from any other state funds that qualify to make a loan under ORS 293.205 to 293.225, if the loan would satisfy the requirements of ORS 293.205 to 293.225, a loan sufficient to make the required payment.

(b) Borrow money, if economical and convenient, as [authorized by ORS 288.165] **provided in section 11 of this 2007 Act.**

(c) Issue state bonds as provided in subsection (2) of this section.

(d) With the approval of the Legislative Assembly, or the Emergency Board if emergency funds are lawfully available for making the required payment in the interim between sessions of the Legislative Assembly, pay moneys from the General Fund or any other funds lawfully available for the purpose or from emergency funds amounts sufficient to make the required payment.

(2) The State Treasurer may issue state bonds to meet the state guaranty obligations under ORS 328.321 to 328.356, pursuant to Article XI-K of the Oregon Constitution. The issuance of [such] state bonds [shall be] **is** at the determination of the State Treasurer and is exempt from [ORS 286.505 to 286.545] **section 9 of this 2007 Act.**

(3) Before issuing or selling any state bonds, the State Treasurer shall prepare a written plan of financing that shall provide for:

(a) The terms and conditions under which the state bonds will be issued, sold and delivered, in accordance with any applicable provisions of ORS [chapters 286 and 288] **chapter 286;**

(b) The taxes or revenues to be anticipated;

(c) The maximum amount of [such] state bonds that may be outstanding at any one time under the plan of financing;

(d) The sources of payment of the state bonds;

(e) The rate or rates of interest, if any, on the state bonds or a method, formula or index under which the interest rate or rates on the state bonds may be determined during the time the state bonds are outstanding; and

(f) Any other details relating to the issuance, sale and delivery of the state bonds, as may be required by the applicable provisions of ORS [chapters 286 and 288] **chapter 286.** For purposes of ORS [chapters 286 and 288] **chapter 286,** the office of the State Treasurer [shall be deemed] **is** the [relevant state] **related** agency authorizing the issuance of bonds and for whose benefit the bonds are issued.

(4) In identifying the taxes or revenues to be anticipated and the sources of payment of the state bonds in the financing plan, the State Treasurer may include:

(a) The intercepted revenues authorized by ORS 328.346; or

(b) Any other source of repayment or lawfully available funds and any combination of this paragraph and paragraph (a) of this subsection.

(5) The State Treasurer may include in the plan of financing the terms and conditions of arrangements entered into by the State Treasurer on behalf of the state with financial and other institutions for letters of credit, standby letters of credit, reimbursement agreements and remarketing, indexing and tender agent agreements to secure the state bonds, including payment from any legally available source of fees, charges or other amounts coming due under the agreements entered into by the State Treasurer.

(6)(a) When issuing the state bonds, the State Treasurer [*shall establish the interest, form, manner of execution, payment, manner of sale, prices at, above or below the face value and all details of issuance of the state bonds in accordance with any applicable provisions of ORS chapters 286 and 288*] **may exercise the powers granted by ORS chapter 286.**

(b) Each state bond shall recite that it is a valid obligation of the state and that the full faith, credit and resources of the state are pledged for the payment of the principal of and interest on the state bond from the taxes or revenues identified in accordance with its terms and the Oregon Constitution and other laws of this state.

(7) Upon the completion of any sale of the state bonds, the State Treasurer shall credit the proceeds of the sale, other than accrued interest and amounts required to pay costs of issuance of the state bonds, to the fund or account established by the State Treasurer to be applied to the purpose for which the state bonds were issued.

**SECTION 133.** ORS 328.565 is amended to read:

328.565. (1) As used in this section, “qualified zone academy bond” has the meaning given the term in [26 U.S.C.] **section 1397E of the Internal Revenue Code**, as amended and in effect on January 1, 2002.

(2) A district school board may contract indebtedness as provided under [ORS 288.165] **section 47 of this 2007 Act.**

(3) A district school board may issue qualified zone academy bonds or similar tax credit bonds authorized by resolution of the district school board. Unless the bond issue has been approved by electors under ORS 328.205 to 328.304, the district school board must issue the bonds [*as limited tax bonds under ORS 288.155 or*] as revenue bonds under [ORS 288.805 to 288.945] **section 46 of this 2007 Act.**

**SECTION 134.** ORS 341.616 is amended to read:

341.616. (1) The district board shall ascertain and levy annually, in addition to all other taxes, a direct ad valorem tax on all the taxable property within the territory of a service area sufficient to pay promptly, when and as such payments become due, the maturing interest and principal of all bonds outstanding for the specific benefit of such service area that have been approved at an election held pursuant to ORS 341.678 within such service area. The amount of the tax may be increased by an amount sufficient to retire any bonds that may be callable.

(2) Funds derived from a tax levy within a service area specifically for the purpose of paying bonded indebtedness shall be applied solely to the payment of the bonds for which such taxes were levied and shall not be applied to the payment of any other indebtedness of the district.

(3) Bonds authorized pursuant to the terms [*hereof*] **of this section**, and any bonds refunding such bonds, shall be [*advertised and sold in accordance with the procedures set forth in ORS 287.028 or 341.702, as determined by the district board*] **issued as prescribed in ORS chapter 287.**

**SECTION 135.** ORS 341.681 is amended to read:

341.681. [(1)] If the electors of the district voting on the question of contracting bonded indebtedness approve the question, the board of the district may issue [*negotiable coupon*] bonds of the district.

[(2) *The bonds shall:*]

[(a) *Bear interest at a rate of interest determined by the board pursuant to ORS 288.520, payable semiannually.*]

[(b) *Bear the original or facsimile signature of the chairperson of the board and be attested by the district clerk.*]

*[(c) Have annexed interest coupons bearing the original or facsimile signatures of the chairperson of the board and the district clerk.]*

*[(3) The principal and interest on district bonds are payable in lawful money of the United States of America at the office of the paying agent and registrar or at the place the bonds are issued.]*

**SECTION 136.** ORS 341.685 is amended to read:

341.685. (1) The paying agent and registrar, *[as]* appointed in accordance with *[ORS 288.570]* **section 48 of this 2007 Act**, shall register each community college district bond, including refunding bonds, in a record maintained for that purpose in the office of the paying agent and registrar, noting the community college district, amount, date, time and place of payment, rate of interest and such other facts as the paying agent and registrar may consider proper. The paying agent and registrar shall cause the bonds to be delivered promptly to the purchasers thereof upon payment therefor, and if the place of delivery is outside the city in which the paying agent and registrar's office is situated, the cost of delivery of the bonds shall be paid by the issuing district.

(2) The paying agent and registrar shall hold the proceeds of the sale of all bonds for the community college district subject to the order of the board of the district to be used solely for the purpose for which the bonds were issued. The paying agent and registrar is authorized to deliver the proceeds of the sale of the bonds to the person designated as custodian of the community college district funds under ORS 341.703.

(3) When the bonds have been so executed, registered and delivered, their legality shall not be open to contest by the community college district, or by any person for or on its behalf, for any reason whatever.

**SECTION 137.** ORS 341.697 is amended to read:

341.697. (1) Whenever any community college district has any outstanding bonded indebtedness, which is due or subject at the option of the district to be paid or redeemed, the district, by and through the board of the district, may:

(a) Issue and exchange, for any such indebtedness, its bonds bearing the rate of interest determined by the board pursuant to *[ORS 288.520]* **section 48 of this 2007 Act**; or

(b) Issue and sell such bonds and apply the proceeds of such sale in payment of the indebtedness for the payment of which the refunding bonds are proposed to be issued.

(2) Refunding bonds issued under subsection (1) of this section shall in all respects conform to, and be governed, as to their issue, by ORS *[287.008,]* 341.675 (3) and *[341.681]* **the provisions of sections 54 to 59 of this 2007 Act that are not inconsistent with this section.**

(3) The refunding of indebtedness and issuing of bonds for such purpose shall not require an election, but may be done by resolution of the board of the district at any legally called board meeting. The debt limitations imposed by law shall not affect the right of any district to issue refunding bonds under authority of this section. The validity of any bonds so issued, or of the indebtedness thereby refunded, shall not thereafter be open to contest by the district or by any person for any reason whatever.

**SECTION 138.** ORS 341.702 is amended to read:

341.702. All legally authorized and issued general obligation bonds or revenue bonds shall be *[advertised and sold in the manner prescribed in ORS 287.014 to 287.022]* **issued as prescribed in ORS chapter 287.**

**SECTION 139.** ORS 341.715 is amended to read:

341.715. (1) As provided by *[ORS 288.165]* **section 47 of this 2007 Act**, the board of a community college district may contract indebtedness by the issuance of short-term *[promissory notes]* **bonds** for the purpose of meeting current expenses, retiring outstanding bonds or warrants, or paying the interest thereon.

(2) The board of the district in which indebtedness was incurred under this section shall levy an annual tax on all taxable property in the district sufficient to meet the interest payments and retire the indebtedness, but no tax shall be necessary where other provisions are made for payment of the indebtedness.

**SECTION 140.** ORS 341.721 is amended to read:

341.721. (1) To provide funds to community college districts for the purposes specified in Article XI-G of the Oregon Constitution, the State Treasurer may issue bonds at the request of the State Board of Education in accordance with the provisions of ORS [286.031 to 286.061] **chapter 286**.

(2) The State Treasurer may not issue bonds pursuant to Article XI-G of the Oregon Constitution under subsection (1) of this section for a community college project unless a grant agreement has been entered into pursuant to ORS 341.735 between the Department of Community Colleges and Workforce Development and the community college district that is receiving the bond proceeds.

**SECTION 141.** ORS 341.728 is amended to read:

341.728. (1) The Community College Bond Building Fund is established separate and distinct from the General Fund.

(2) The Community College Bond Building Fund shall consist of moneys realized from the sale of bonds issued pursuant to Article XI-G of the Oregon Constitution for the benefit of community college districts under ORS 341.721.

(3) Moneys in the Community College Bond Building Fund are appropriated continuously to the Department of Community Colleges and Workforce Development and may be disbursed by the department for the construction, remodeling, expansion and renovation of facilities at community colleges pursuant to grant agreements entered into between the department and community college districts under ORS 341.735.

(4) Moneys in the Community College Bond Building Fund may be invested[, *with the approval of the State Treasurer,*] **as provided in section 7 of this 2007 Act** until needed for disbursement under subsection (3) of this section. If a surplus remains in the fund after disbursement, the surplus and earnings from temporary investments shall be credited to the Community College Bond Sinking Fund.

**SECTION 142.** ORS 341.739 is amended to read:

341.739. The Department of Community Colleges and Workforce Development may receive bond counsel services and financial advisory services through the Department of Higher Education. If the Department of Community Colleges and Workforce Development receives services through the Department of Higher Education, the Department of Community Colleges and Workforce Development is not obligated to obtain [*those services pursuant to ORS 286.066 and 286.071*] **bond counsel services or financial advisory services as otherwise prescribed in sections 20 and 21 of this 2007 Act**.

**SECTION 143.** ORS 348.665 is amended to read:

348.665. Bonds authorized under ORS 348.570 and 348.625 to 348.695 shall be issued in accordance with the provisions of ORS [288.805 to 288.945, and] **chapter 286**. The State Treasurer, in consultation with the Oregon Student Assistance Commission, [*shall have and shall exercise all the powers of a public body, including, but not limited to, the power to*] **may** establish special accounts or subaccounts in the Alternative Student Loan Program Fund created by ORS 348.570 and [*the power to*] **may** pledge the assets or the revenues, or any portion thereof, of the alternative student loan program.

**SECTION 144.** ORS 351.315 is amended to read:

351.315. In carrying out the power and authority granted by ORS 351.140 **or 351.160**, the State Board of Higher Education may **request the State Treasurer to** borrow money and [*notes, bonds or other evidences of indebtedness may be issued*] **issue bonds, as defined in section 2 of this 2007 Act**, secured by the pledge of the real property to be acquired and revenues, as provided in ORS 351.140 **or 351.160**. Such [*evidences of indebtedness*] **bonds** shall be issued in accordance with the provisions of ORS [286.031 to 286.061] **chapter 286**.

**SECTION 145.** ORS 351.317 is amended to read:

351.317. [*No*] **An** obligation [*of any kind*] incurred under ORS 351.140 or 351.315 [*shall be, or be considered,*] **is not** an indebtedness of the State of Oregon[, *or to*] **and does not** create a general indebtedness of the State Board of Higher Education. [*Any contract of purchase, note or bond or other obligation issued by said*] **A bond issued by the State Treasurer at the request of the board**

[shall limit its payment to] **may be paid only from** the property, [and] income or revenues pledged to secure its payment.

**SECTION 146.** ORS 351.345 is amended to read:

351.345. In order to provide funds for the purposes specified in Article XI-G of the Oregon Constitution, **the State Board of Higher Education may request the State Treasurer to issue** bonds [may be issued] in accordance with the provisions of ORS [286.031 to 286.061] **chapter 286.**

**SECTION 147.** ORS 351.350 is amended to read:

351.350. In order to provide funds for the purposes specified in Article XI-F(1), Oregon Constitution, **the State Board of Higher Education may request the State Treasurer to issue** bonds [may be issued] in accordance with the provisions of ORS [286.031 to 286.061] **chapter 286.**

**SECTION 148.** Section 6, chapter 787, Oregon Laws 2005, is amended to read:

**Sec. 6.** (1) Pursuant to Article XI-G of the Oregon Constitution and ORS [286.031 to 286.061 and] 351.345 **and ORS chapter 286, at the request of the State Board of Higher Education, the State Treasurer** may sell[, with the approval of the State Treasurer,] general obligation bonds of the State of Oregon of the kind and character and within the limits prescribed by Article XI-G of the Oregon Constitution, [as the board determines,] but in no event may the [board] **State Treasurer** sell more than the aggregate principal sum of \$82,565,329 par value for the biennium beginning July 1, 2005. The moneys realized from the sale of the bonds shall be appropriated and may be expended for the purposes set forth in section 2 (3)(h), (4)(f) and (8)(b), chapter 845, Oregon Laws 2001, and section 2 (1)(a), (5)(f), (i) and (j), (6)(h) and (p) and (7)(e), **chapter 787, Oregon Laws 2005, [of this 2005 Act]** and for payment for capitalized interest and costs incidental to issuance of the bonds.

(2) In compliance with the requirements of Article XI-G of the Oregon Constitution, funds available under the expenditure limitation for bonds issued pursuant to Article XI-G of the Oregon Constitution in section 2 (1)(a), **chapter 787, Oregon Laws 2005, [of this 2005 Act]** are matched with the General Fund appropriation made under section 1 (1), **chapter 787, Oregon Laws 2005 [of this 2005 Act]**.

(3) In compliance with the requirements of Article XI-G of the Oregon Constitution, funds available under the expenditure limitation for bonds issued pursuant to Article XI-G of the Oregon Constitution in section 2 (5)(f), **chapter 787, Oregon Laws 2005, [of this 2005 Act]** are matched with the General Fund appropriation made under [section 10 of this 2005 Act] **ORS 351.517.**

(4) In compliance with the requirements of Article XI-G of the Oregon Constitution, funds available under the expenditure limitation for bonds issued pursuant to Article XI-G of the Oregon Constitution in section 2 (5)(i), **chapter 787, Oregon Laws 2005, [of this 2005 Act]** are matched with the General Fund appropriation made under [section 11 of this 2005 Act] **ORS 351.515.**

(5) In compliance with the requirements of Article XI-G of the Oregon Constitution, funds available under the expenditure limitation for bonds issued pursuant to Article XI-G of the Oregon Constitution in section 2 (5)(j), **chapter 787, Oregon Laws 2005, [of this 2005 Act]** are matched with the General Fund appropriation made under [section 12 of this 2005 Act] **ORS 351.518.**

(6) In compliance with the requirements of Article XI-G of the Oregon Constitution, funds available under the expenditure limitation for bonds issued pursuant to Article XI-G of the Oregon Constitution in section 2 (6)(h), **chapter 787, Oregon Laws 2005, [of this 2005 Act]** are matched with the General Fund appropriation made under [section 13 of this 2005 Act] **ORS 351.508.**

(7) In compliance with the requirements of Article XI-G of the Oregon Constitution, funds available under the expenditure limitation for bonds issued pursuant to Article XI-G of the Oregon Constitution in section 2 (6)(p), **chapter 787, Oregon Laws 2005, [of this 2005 Act]** are matched with the General Fund appropriation made under [section 14 of this 2005 Act] **ORS 351.507.**

(8) In compliance with the requirements of Article XI-G of the Oregon Constitution, funds available under the expenditure limitation for bonds issued pursuant to Article XI-G of the Oregon Constitution in section 2 (7)(e), **chapter 787, Oregon Laws 2005, [of this 2005 Act]** are matched with the General Fund appropriation made under [sections 1 and 15 of this 2005 Act] **ORS 351.315 and section 1, chapter 787, Oregon Laws 2005.**

**SECTION 148a.** Section 9, chapter 787, Oregon Laws 2005, is amended to read:

**Sec. 9.** Notwithstanding ORS 351.345 and section 2, **chapter 787, Oregon Laws 2005** [of this 2005 Act], the [State Board of Higher Education] **State Treasurer** may issue bonds for a project listed in section 2 (1)(a), (5)(f), (i) and (j), (6)(h) and (p) or (7)(e), **chapter 787, Oregon Laws 2005** [of this 2005 Act]:

(1) If the total amount from other revenues, including federal funds, identified for the project in the expenditure limitation in section 2, **chapter 787, Oregon Laws 2005**, [of this 2005 Act] has been received by the State Board of Higher Education; or

(2) After reporting to the Emergency Board, if the total amount from other revenues, including federal funds, identified for the project in the expenditure limitation in section 2, **chapter 787, Oregon Laws 2005**, [of this 2005 Act] has not been received by the state board.

**SECTION 149.** Section 2, chapter 788, Oregon Laws 2005, is amended to read:

**Sec. 2.** (1) Pursuant to ORS 286.560 to 286.580, lottery bonds may be issued by the **State Treasurer at the request of the** Department of Higher Education for deferred maintenance projects.

(2) The use of lottery bond proceeds is authorized based on the following findings:

(a) Major subsystems within university buildings are wearing out and must be replaced in order that universities have adequate facilities for teaching.

(b) Having safe and fully functioning university facilities is essential to Oregon's healthy economic growth.

(3) The aggregate principal amount of lottery bonds issued pursuant to subsection (1) of this section by the [Department of Higher Education] **State Treasurer** for deferred maintenance projects may not exceed the amount of \$19.43 million and an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs as defined in ORS 286.560.

**SECTION 150.** ORS 351.450 is amended to read:

351.450. (1) 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 the Higher Education Bond Building Fund.

(2) In the Higher Education Bond Building Fund there shall be:

(a) 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;

(b) 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; and

(c) A separate subfund for the credit of moneys realized from the sales of revenue bonds issued pursuant to ORS [288.855] **chapter 286**.

(3) 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.

(4) The moneys in the fund are continuously 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. 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.

**SECTION 151.** ORS 351.455 is amended to read:

351.455. 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**, and **from the sale of** revenue bonds [issued pursuant to ORS 288.855 and 351.350] **authorized by ORS 351.315**, 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.

**SECTION 152.** 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 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, and revenue bonds [*issued under authority of ORS 288.855*] **authorized by ORS 351.315**. 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 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 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*] **upon revenue bonds authorized by ORS 351.315** 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*] **351.315** shall be applied only to those [*projects*] **bonds** authorized under Article XI-F(1) of the Oregon Constitution or ORS [*288.855*] **351.315**.

(5)(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 152a.** ORS 351.470 is amended to read:

351.470. Pending receipt of the proceeds from the expected sale of bonds [*under the provisions of ORS 351.345 to 351.460*] **authorized by this chapter**, 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 **Oregon** Constitution [*of the State of Oregon, ORS 288.855 and*] **or 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] **may** 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] **may not** be later than two years from the date of issue of the original temporary bonds for the related building project.

**SECTION 153.** ORS 352.790 is amended to read:

352.790. As used in ORS 352.790 to 352.820, unless the context requires otherwise:

(1) "Education facilities" means real or personal property owned or operated by an educational institution and used to provide post-secondary education. "Education facilities" includes administrative offices, student and staff parking and on-campus dormitories, but does not include property used for sectarian instruction nor used primarily as a place of religious worship or as a part of a program of a school or department of divinity for any religious denomination or for the religious training of ministers, priests, rabbis or other similar persons in the field of religion.

(2) "Education facilities costs" means all costs of acquiring, constructing and improving education facilities, and capitalized interest, reserves, costs of credit enhancements and costs of issuing and paying revenue bonds.

(3) "Education facility revenues" means repayments of loans authorized by ORS 352.800 (3), and any moneys derived from rights or property which are security for such a loan.

(4) "Educational institution" means any nonprofit institution located in this state which grants post-secondary degrees and is accredited by the Northwest Association of Schools and Colleges or affiliated nonprofit foundations whose role is to further the mission of qualified institutions.

(5) "Municipality" means any city or county.

(6) "Revenue bond" [means bonds, notes, loan contracts or other obligations] **means a revenue bond as defined in section 42 of this 2007 Act that is** issued by a municipality pursuant to ORS 352.790 to 352.820.

**SECTION 154.** ORS 352.800 is amended to read:

352.800. Except as otherwise provided in ORS 352.810, a municipality shall have all powers necessary to finance education facilities in accordance with ORS 352.790 to 352.820, including the power:

(1) To borrow money and to issue revenue bonds to finance education facilities costs or to refund revenue bonds[, as provided in ORS 288.815 to 288.945] **pursuant to section 46 of this 2007 Act.**

(2) To pledge education facility revenues to pay revenue bonds.

(3) To loan money to educational institutions to finance education facilities and to enter into loan contracts.

(4) To enter into covenants with the owners of revenue bonds which are intended to protect the rights of such owners.

(5) To contract with trustees to hold and administer education facility revenues and the proceeds of revenue bonds.

(6) To take any other action necessary to carry out the powers granted by ORS 352.790 to 352.820.

**SECTION 155.** ORS 352.805 is amended to read:

352.805. (1) Revenue bonds shall be payable solely from that portion of education facility revenues which the municipality pledges therefor in the resolution authorizing issuance of revenue bonds.

(2) A municipality may authorize the issuance of revenue bonds by resolution or nonemergency ordinance under the procedure described in [ORS 288.815] **section 46 of this 2007 Act.**

(3) The resolution may provide for the establishment of one or more special funds and may place such funds under the control of one or more trustees. The resolution may obligate the municipality to deposit and expend the proceeds of the revenue bonds only into and from such fund or funds, and to set aside and pay into such fund or funds specified education facility revenues.

(4) Any pledge of education facility revenues made by a municipality shall be valid and binding, without physical delivery or additional action, from the time that the pledge is made against any parties having subsequent claims of any kind in tort, contract or otherwise against a municipality or an educational institution, irrespective of whether such parties have actual notice thereof. The pledge shall be noted in the resolution authorizing issuance of revenue bonds, which shall be constructive notice thereof to all parties and the resolution need not be recorded, nor shall the filing of any financing statement under the Uniform Commercial Code be required to perfect such pledge.

(5) The municipality may establish the terms under which its revenue bonds shall be issued and sold.

(6) All revenue bonds issued pursuant to ORS 352.790 to 352.820 shall be legal securities which may be used by any insured institution or trust company, as those terms are defined in ORS 706.008, for deposit with the State Treasurer or a county treasurer or city treasurer as security for deposits in lieu of a surety bond under any law relating to deposits of public moneys. The revenue bond shall constitute legal investments for public bodies, trustees and other fiduciaries, banks, savings and loan associations and insurance companies. All revenue bonds shall constitute negotiable instruments within the meaning of and for all purposes of the law of this state.

**SECTION 156.** ORS 353.340 is amended to read:

353.340. Oregon Health and Science University may from time to time issue and sell revenue bonds in accordance with *[the provisions of the Uniform Revenue Bond Act contained in ORS 288.805 to 288.945]* **ORS chapter 287**. However, the provisions contained in *[ORS 288.815 shall]* **section 46 (2) to (6) of this 2007 Act do** not apply to revenue bonds issued by the university. Such revenue bonds shall not in any manner nor to any extent be a general obligation of the university nor a charge upon any revenues or property of the university not specifically pledged thereto. *[No] An obligation [of any kind incurred under ORS 288.805 to 288.945 shall be, or be considered,]* **described in this section is not** an indebtedness of the State of Oregon.

**SECTION 157.** ORS 353.350 is amended to read:

353.350. Revenue bonds issued by the Oregon Health and Science University pursuant to *[ORS 288.805 to 288.945]* **ORS chapter 287** shall be considered to be bonds *[or obligations]* of a political subdivision of the State of Oregon for the purposes of all laws of the state.

**SECTION 158.** ORS 353.360 is amended to read:

353.360. Refunding bonds *[and advance refunding bonds]* of the same character and tenor as those replaced thereby may be issued by the Oregon Health and Science University pursuant to *[ORS 288.592 to 288.695 as applicable and in accordance with the laws of the state]* **sections 54 to 59 of this 2007 Act**.

**SECTION 159.** ORS 354.685 is amended to read:

354.685. When authorized by its electors, a district board may finance the acquisition, purchase, lease, operation or maintenance of the district by any of the following methods:

(1) Imposition of a service charge upon property within the district for use of the translator signals as provided in ORS 354.690. A district created before May 7, 1979, shall be considered to have received elector authorization for imposition of the service charge.

(2) Issuance of revenue bonds. The revenue bonds shall be issued *[in the same manner and form as are general obligation bonds under ORS 287.014 to 287.022 but they shall be]* **as prescribed in ORS chapter 287, but are not subject to the requirements of section 46 of this 2007 Act. The revenue bonds are** payable both as to principal and interest from revenues only. The revenue bonds shall not be subject to the percentage limitation applicable to general obligation bonds and shall not be a lien on any of the taxable property within the limits of the district and shall be payable solely from such part of revenues of the district as remains after the payment of obligations having a priority and of all expenses of operation and maintenance of the district. All revenue bonds shall

contain a provision that both the principal and interest are payable solely from the operating revenues of the district remaining after paying such obligations and expenses.

**SECTION 160.** ORS 358.380 is amended to read:

358.380. The provisions of [*general law, including issuance procedures, relating to bond issues of cities shall*] **ORS chapter 287** apply to bonds issued under ORS 358.375.

**SECTION 161.** ORS 367.010 is amended to read:

367.010. As used in this chapter:

(1) "Agency" means any department, agency or commission of the State of Oregon.

(2) "Bond" means an evidence of indebtedness including, but not limited to, a bond, a note, an obligation, a loan agreement, a financing lease, a financing agreement or other similar instrument or agreement.

(3) "Bond debt service" means payment of:

(a) Principal, interest, premium, if any, or purchase price of a bond;

(b) Amounts due to a credit enhancement provider, **trustee, paying agent or remarketing agent** authorized by this chapter;

(c) Amounts necessary to fund bond debt service reserves; and

(d) Amounts due under an agreement for exchange of interest rates if designated by the State Treasurer or the Department of Transportation.

(4) "Credit enhancement" 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*] **credit enhancement device, as defined in section 2 of this 2007 Act.**

(5) "Financial institution" means a banking institution, a financial institution or a non-Oregon institution, as those terms are defined in ORS 706.008, and any other institution defined by rule of the Oregon Transportation Commission as a financial institution for purposes of ORS 367.010 to 367.067.

(6) "Infrastructure assistance" means any use of moneys in the Oregon Transportation Infrastructure Fund, other than an infrastructure loan, to provide financial assistance for transportation projects. The term includes, but is not limited to, use of moneys in the infrastructure fund to finance leases, fund reserves, make grants, pay issuance costs or provide credit enhancement or other security for bonds issued by a public entity to finance transportation projects.

(7) "Infrastructure bonds" means bonds authorized by ORS 367.030, 367.555 to 367.600 or 367.605 to 367.670 that are issued to fund infrastructure loans and the proceeds of which are deposited in the infrastructure fund.

(8) "Infrastructure fund" means the Oregon Transportation Infrastructure Fund.

(9) "Infrastructure loan" means a loan of moneys in the infrastructure fund to finance a transportation project.

(10) "Municipality" means a city, county, road district, school district, special district, metropolitan service district, the Port of Portland or an intergovernmental entity organized under ORS 190.010.

(11) "Transportation project" means any project or undertaking that facilitates any mode of transportation within this state. The term includes, but is not limited to, a project for highway, transit, rail and aviation capital infrastructure, bicycle and pedestrian paths, bridges and ways, and other projects that facilitate the transportation of materials, animals or people.

**SECTION 162.** ORS 367.015 is amended to read:

367.015. (1) There is established in the State Treasury, separate and distinct from the General Fund, the Oregon Transportation Infrastructure Fund. All moneys in the infrastructure fund are continuously appropriated to the Department of Transportation for the purposes of ORS 367.010 to 367.067.

(2) The infrastructure fund consists of:

(a) Moneys appropriated to the infrastructure fund by the Legislative Assembly.

(b) Moneys transferred to the infrastructure fund by the department from the State Highway Fund or from other funds available to the Oregon Transportation Commission.

(c) Moneys from any federal grant, state grant or other grant that are deposited in the infrastructure fund.

(d) Proceeds of infrastructure bonds.

(e) Proceeds of Highway User Tax Bonds issued under ORS 367.615 [and 367.670] for the purpose of providing infrastructure assistance or an infrastructure loan.

(f) Moneys due to a municipality that are withheld pursuant to ORS 367.035 (3) or (5) and, for a loan made with proceeds of Highway User Tax Bonds, moneys due to a municipality that are withheld pursuant to ORS 367.655 (2)(c).

(g) Earnings on the infrastructure fund.

(h) Moneys paid to the department in connection with infrastructure loans or infrastructure assistance.

(i) Any grants or donations made to the State of Oregon for deposit in the infrastructure fund.

(3) A pledge by the department of its revenues or other moneys in the infrastructure fund is valid and binding from the time the pledge is made as provided in [ORS 288.594] **section 18 of this 2007 Act.**

(4) The department shall use moneys in the infrastructure fund solely to:

(a) Provide infrastructure loans and infrastructure assistance;

(b) Pay the bond debt service for infrastructure bonds and pay the costs of issuance and other costs related to infrastructure bonds;

(c) Pay the department's costs of administering the infrastructure fund and providing infrastructure loans and infrastructure assistance, including any costs of monitoring transportation projects and obtaining repayment of infrastructure loans and infrastructure assistance;

(d) Pay the department's or another public entity's costs for transportation projects including, but not limited to, projects funded with the proceeds of Highway User Tax Bonds; and

(e) Ensure repayment of loan guarantees or extensions of credit as provided in ORS 367.816.

(5) The department may establish separate accounts in the infrastructure fund for infrastructure loans, infrastructure assistance, the funding of infrastructure bond reserves, bond debt service payments for infrastructure bonds and related costs, administrative and operating expenses or any other purpose necessary or desirable for carrying out the purposes of ORS 367.010 to 367.067. The commission may adopt rules that govern how the infrastructure fund and its accounts are used. The infrastructure fund or any of its accounts may be held by an escrow agent or bond trustee.

(6) The department shall administer the infrastructure fund. Moneys in the infrastructure fund, with the approval of the State Treasurer, may be invested as provided by ORS 293.701 to 293.820 and the earnings from such investments must be credited to the account in the infrastructure fund designated by the department.

**SECTION 163.** ORS 367.025 is amended to read:

367.025. (1) If the Department of Transportation determines that it is necessary or desirable to issue infrastructure bonds to provide moneys for the Oregon Transportation Infrastructure Fund, the department shall ask the State Treasurer to issue infrastructure bonds.

**(2) Infrastructure bonds shall be issued as provided in ORS chapter 286.**

*[(2) When the department asks the State Treasurer to issue infrastructure bonds, if the State Treasurer determines that infrastructure bonds shall be issued:]*

*[(a) The State Treasurer may authorize and issue infrastructure bonds to provide moneys for the infrastructure fund.]*

*[(b) The State Treasurer may enter into agreements with bond underwriters, trustees, financial advisers and other persons to carry out ORS 367.010 to 367.067. The department may appoint bond counsel as authorized by ORS 288.523, or the State Treasurer may enter into an agreement with bond counsel if the services provided under the agreement comply with the provisions of ORS 288.523 and the appointment is approved by the Attorney General as required by ORS 288.523. The department may not appoint bond counsel under this paragraph unless the State Treasurer has reviewed and approved*

*the terms and conditions of the appointment. ORS 279A.140 does not apply to an appointment or agreement described in this paragraph.]*

**SECTION 164.** ORS 367.030 is amended to read:

367.030. (1) To provide moneys for the Oregon Transportation Infrastructure Fund or to refund bonds authorized by this section, the State Treasurer may, *[in cooperation with]* **at the request of** the Department of Transportation, issue revenue bonds of the State of Oregon that are payable solely from all or any portion of the moneys deposited in the infrastructure fund and may pledge such moneys to secure the revenue bonds. The department or State Treasurer may exercise any power granted *[to a municipality or public body by the Uniform Revenue Bond Act]* **by ORS chapter 286** in connection with bonds authorized by this section. However, the State Treasurer or the department shall not pledge or encumber any moneys of the State of Oregon other than those required by ORS 367.010 to 367.067 to be deposited in the infrastructure fund.

(2) The department may enter into covenants for the benefit of the owners of bonds authorized by this section regarding the use of moneys in the infrastructure fund, the providing of infrastructure assistance and the collection of infrastructure loans. Any such covenants shall be binding upon the State of Oregon in accordance with their terms and shall be enforceable against the State of Oregon by owners of the bonds. However, no owner of bonds authorized by this section shall ever have the right to compel any exercise of the taxing power of the state to pay any such bonds or the interest thereon, or to enforce payment thereof against any property of the state, except those moneys in the infrastructure fund that are pledged to pay the bonds and any moneys the department or an agency may agree to use to repay infrastructure loans under ORS 367.040. Bonds authorized by this section shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the state, except moneys in the infrastructure fund that are pledged to pay the bonds, and any property that the department or agency pledges, mortgages or assigns to secure infrastructure loans pursuant to ORS 367.040. Revenue bonds authorized by this section shall not constitute a debt of the state or a lending of the credit of the state within the meaning of any constitutional or statutory limitation.

(3) The total principal amount of revenue bonds that are issued under this section and outstanding at any time shall not exceed \$200 million.

**SECTION 165.** ORS 367.105 is amended to read:

367.105. (1) In addition to the authority for short-term borrowing granted in *[ORS 288.165]* **sections 7 (2)(d) and 11 of this 2007 Act**, the Department of Transportation, acting through the State Treasurer, may borrow money by entering into a credit agreement, a line of credit or a revolving line of credit, or by issuing a note, a warrant, a short-term promissory note, commercial paper or another similar obligation, for the following purposes:

(a) Providing matching funds as set forth in ORS 366.564.

(b) Providing funds with which to pay when due the principal or interest of bonded indebtedness created for highway purposes, the payment of which is necessary to preserve the financial credit of the state.

(c) Meeting emergencies.

(d) Providing funds for use by the department during times when expenditures exceed revenues, whether or not the department anticipated that expenditures would exceed revenues.

(e) Providing funds for the payment of current expenses in anticipation of revenue, grants or other moneys intended for payment of the current expenses.

(f) Providing funds for interim financing of a capital asset or project to be undertaken by the department.

(g) Refunding an outstanding obligation.

(2) Short-term borrowing under this section may be in such denominations or for such sums as the department fixes and may draw interest at a negotiated rate.

(3) The total outstanding indebtedness created by the short-term borrowing under this section may not exceed \$100 million in outstanding principal amount.

(4) All short-term borrowing issued pursuant to this section shall mature within three years from the date of issuance.

(5) The department shall pay for and secure short-term borrowing under this section with funds from the State Highway Fund or other funds that are legally available to the department for the purposes for which the moneys were borrowed, including moneys received by the department from the United States government. **Section 9 of this 2007 Act does not apply to borrowings under this section.**

**SECTION 166.** ORS 367.166 is amended to read:

367.166. (1) A grant anticipation revenue bond issued under ORS 367.161 to 367.181:

(a) Must contain on its face a statement that the ad valorem taxing power of this state or any political subdivision of this state is not pledged to the payment of the principal or the interest on the revenue bond.

*[(b) May be sold at public competitive bid or at private negotiated sale.]*

**(b) Shall be issued as provided in ORS chapter 286.**

*[(c) May be sold at the price or prices established by the State Treasurer, upon the advice of the Department of Transportation.]*

*[(d)]* (c) Must mature on or before a date determined by calculation of the expected economic life of the improvements, assets and projects financed with the proceeds of the revenue bonds.

(2) The State Treasurer shall determine, *[upon the advice of]* **in consultation with** the department and consistent with ORS *[288.805 to 288.945]* **chapter 286**, all aspects relating to the sale of revenue bonds under ORS 367.161 to 367.181 that are not otherwise specifically provided, including rate of interest and discount, if any.

**SECTION 167.** ORS 367.555 is amended to read:

367.555. *[In addition to the authority now vested by any other provision of law,]* The Department of Transportation may **request the State Treasurer to** issue general obligation bonds of the State of Oregon used to provide funds to defray the costs of building and maintaining permanent roads, including the costs of location, relocation, improvement, construction and reconstruction of state highways and bridges, in an outstanding principal amount that is subject to the provisions of *[ORS 286.505 to 286.545]* **section 9 of this 2007 Act.**

**SECTION 168.** ORS 367.565 is amended to read:

367.565. The Department of Transportation shall **request the State Treasurer to** issue general obligation bonds under ORS 367.555 to 367.600 in accordance with ORS *[286.031 to 286.066]* **chapter 286.**

**SECTION 169.** ORS 367.600 is amended to read:

367.600. The **State Treasurer on behalf of the** Department of Transportation may not issue or sell general obligation bonds under ORS 367.555 to 367.600 that, singly or in the aggregate with previous debts or liabilities incurred for the building and maintaining of permanent roads, exceed *[any]* **an applicable** limitation provided in the Oregon Constitution at the date of the issuance and sale of such general obligation bonds.

**SECTION 169a.** ORS 367.605 is amended to read:

367.605. (1) Moneys deposited in the State Highway Fund established under ORS 366.505 are pledged to payment of Highway User Tax Bonds issued under ORS 367.615 *[and 367.670]*.

(2) Except as provided in subsection (3) of this section, moneys, once deposited in the highway fund from the following sources are subject to the use or pledge described in subsection (1) of this section:

(a) Moneys from the taxes and fees on motor carriers imposed under ORS 825.474 and 825.480.

(b) Moneys from the tax on motor vehicle fuel imposed under ORS 319.020.

(c) Moneys from the tax on fuel used in motor vehicles imposed under ORS 319.530.

(d) Moneys described under ORS 803.090 from the titling of vehicles.

(e) Moneys described under ORS 803.420 from the registration of vehicles.

(f) Moneys described under ORS 807.370 relating to the issuance of driver licenses and driver permits.

(g) Moneys received by the Department of Transportation from taxes, fees or charges imposed after January 1, 2001, or other revenues received by the department from sources not listed in paragraphs (a) to (f) of this subsection that are available for the use or pledge described by this section.

(3) Moneys described under subsection (2) of this section do not include:

(a) Moneys provided for appropriations to counties under ORS 366.762 to 366.768.

(b) Moneys provided for appropriations to cities under ORS 366.785 to 366.820.

(c) Moneys in the account established under ORS 366.512 for parks and recreation.

(4) To the extent affirmatively pledged, moneys from the following sources are subject to the use or pledge described in subsection (1) of this section:

(a) Moneys received by the Department of Transportation from the United States government.

(b) Any other moneys legally available to the department.

(5) Notwithstanding ORS 366.507, the lien or charge of any pledge of moneys securing bonds issued under ORS 367.615 [or 367.670] is superior or prior to any other lien or charge and to any law of the state requiring the department to spend moneys for specified highway purposes.

**SECTION 170.** ORS 367.615 is amended to read:

367.615. (1) [In addition to any authority the Department of Transportation has to issue and sell bonds,] The Department of **Transportation** may **request the State Treasurer to** issue and sell revenue bonds known as Highway User Tax Bonds as provided in this section[.].

[(1)] (2) Bonds issued under this section do not constitute a debt or general obligation of this state or any political subdivision of this state but are secured and payable from moneys described under ORS 367.605. A holder of bonds issued under this section may not compel the exercise of the ad valorem taxing power of the state to pay the bond debt service on the bonds.

[(2)] (3) This state shall provide for the continued assessment, levy, collection and deposit into the highway fund moneys described under ORS 367.605 in amounts sufficient to pay, when due, the annual bond debt service and other amounts necessary to meet requirements established by indenture under ORS 367.640.

[(3)] (4) This state may not in any way impair obligations of any agreement between this state and the holders of bonds issued under this section.

[(4)] (5) The authority granted by this section is continuing and the department reserves the right[, through and with the prior approval of] **to request** the State Treasurer[,] to issue additional bonds under this section subject to the following:

(a) Additional bonds must be secured equally and ratably by the pledge and appropriation of moneys described under ORS 367.605 unless the [department] **State Treasurer**, as permitted by law and the contracts with owners of outstanding Highway User Tax Bonds, issues additional bonds in different series and secures each series by a lien on and pledge of moneys described under ORS 367.605 that is superior to or subordinate to the lien of the pledge securing any other series of Highway User Tax Bonds.

(b) The [department] **State Treasurer** may only issue additional bonds if sufficient moneys described under ORS 367.605 may be pledged to pay the annual bond debt service for all outstanding bonds issued under this section as well as for the additional bonds.

[(5)] (6) Proceeds from the sale of bonds under this section are declared to be for the purpose of building and maintaining permanent public roads and may be used:

(a) To finance the cost of state highway, county road and city street projects in this state.

(b) To pay the cost of issuing the bonds.

(c) For loans to cities and counties as provided under ORS 367.035 or 367.655.

(d) To pay the bond debt service of the bonds.

(e) To pay the costs of the State Treasurer and the department to administer and maintain the bonds and the Highway User Tax Bond program, including the cost of consultants, advisors, attorneys or other professional service providers appointed, retained or approved by the treasurer or the department.

(f) To pay capitalized interest, principal or premium, if any, of the bonds.

(g) For rebates or penalties due to the United States in connection with the bonds.

[6)] (7) The [department] **State Treasurer, at the request of the department,** may issue Highway User Tax Bonds as capital appreciation bonds, auction rate bonds, variable rate bonds, deep discount bonds or deferred interest bonds.

[7)] (8) The State Treasurer or the Director of Transportation, if so directed by the treasurer, may obtain credit enhancement or an agreement for exchange of interest rates to provide additional security or liquidity for the bonds or to provide funding, in lieu of cash, for all or a portion of a bond debt service reserve account established with respect to the bonds.

**SECTION 171.** ORS 367.620 is amended to read:

367.620. (1) The principal amount of Highway User Tax Bonds issued under ORS 367.615 shall be subject to the provisions of [ORS 286.505 to 286.545] **section 9 of this 2007 Act.**

(2) Highway User Tax Bonds may be issued under ORS 367.615 for the purposes described in ORS 367.622 in an aggregate principal amount sufficient to produce net proceeds of not more than \$500 million.

(3)(a) Highway User Tax Bonds may be issued under ORS 367.615 for bridge purposes described in section 10 (1), chapter 618, Oregon Laws 2003, in an aggregate principal amount sufficient to produce net proceeds of not more than \$1.6 billion.

(b) Highway User Tax Bonds may be issued under ORS 367.615 for modernization purposes described in sections 10 (2) and 11, chapter 618, Oregon Laws 2003, in an aggregate principal amount sufficient to produce net proceeds of not more than \$300 million.

(c) The Department of Transportation, **with the approval of the State Treasurer,** may designate the extent to which a series of bonds authorized under this subsection is secured and payable on a parity of lien or on a subordinate basis to existing or future Highway User Tax Bonds.

**SECTION 172.** ORS 367.635 is amended to read:

367.635. (1) A bond issued under ORS 367.615:

(a) Must contain on its face a statement that the ad valorem taxing power of this state or any political subdivision of this state is not pledged to the payment of the principal or the interest on the bond.

[b) *May be sold at public competitive bid or at private negotiated sale.*]

[c) *May be sold at the price or prices established by the State Treasurer, upon the advice of the Department of Transportation.*]

**(b) Shall be issued as provided in ORS chapter 286.**

[d)] (c) Must mature on or before a date determined by calculation of the expected economic life of the improvements, assets and projects financed with the proceeds of the bonds. Subject to this paragraph, the time bonds mature may be as established by indenture under ORS 367.640.

(2) The State Treasurer shall determine, [upon the advice of] **in consultation with** the department and consistent with ORS [288.805 to 288.945] **chapter 286,** all aspects relating to the sale of bonds under ORS 367.615 that are not otherwise specifically provided, including rate of interest and discount, if any.

**SECTION 172a.** ORS 367.665 is amended to read:

367.665. The interest upon all bonds issued under ORS 367.615 and upon all refunding and advance refunding bonds issued under ORS [367.670] **chapter 286** is exempt from personal income taxation imposed by this state under ORS chapter 316.

**SECTION 173.** ORS 367.715 is amended to read:

367.715. All bonds issued under ORS 367.700 to 367.750 must be issued in accordance with ORS [286.031 to 286.066] **chapter 286.**

**SECTION 174.** ORS 367.812 is amended to read:

367.812. (1) In addition to any authority [the Department of Transportation has] to issue and sell bonds and other similar obligations, this section establishes continuing authority for the [issuance and sale of] **State Treasurer to issue and sell** bonds and other similar obligations, **at the request of the Department of Transportation,** in a manner consistent with this section. To finance any transportation project in whole or in part, the department may request that the State Treasurer issue revenue bonds on behalf of the department. Revenue bonds authorized under this section shall

be issued in accordance with the applicable provisions of ORS [*chapters 286 and 288*] **chapter 286**. The bonds shall be secured by a pledge of, and a lien on, and shall be payable only from moneys in the State Transportation Enterprise Fund established by ORS 367.810 and any other revenues specifically pledged to repayment of the bonds. Such a pledge by the department of its revenues creates a lien that is valid and binding from the time the pledge is made as provided in [*ORS 288.594*] **section 18 of this 2007 Act**. Revenue bonds issued pursuant to this section are not general obligations of the state and are not secured by or payable from any funds or assets of the state other than the moneys and revenues specifically pledged to the repayment of such revenue bonds.

(2) Moneys received from the issuance of revenue bonds or other debt obligations, including any investment earnings thereon, may be expended:

(a) For the purpose of financing the costs of the transportation project for which the bonds are issued;

(b) To pay the costs and other administrative expenses of the bonds;

(c) To pay the costs of credit enhancement or to fund any reserves determined to be necessary or advantageous in connection with the revenue bonds; and

(d) To reimburse the department for any costs related to carrying out the purposes of the program established under ORS 367.804.

(3) Any transportation project may be financed in whole or in part with:

(a) The proceeds of grant anticipation revenue bonds authorized by 23 U.S.C. 122 and applicable state law.

(b) Grants, loans, loan guarantees, lines of credit, revolving lines of credit or other financing arrangements available pursuant to the Transportation Infrastructure Finance and Innovation Act under 23 U.S.C. 181 et seq., or any other applicable federal law.

(c) Infrastructure loans or assistance from the Oregon Transportation Infrastructure Fund established by ORS 367.015.

(4) As security for the payment of financing described in subsection (3) of this section, the revenues from the project may be pledged, but no such pledge of revenues constitutes in any manner or to any extent a general obligation of the state. Any financing described in subsection (3) of this section may be structured on a senior, parity or subordinate basis to any other financing.

**SECTION 175.** ORS 370.140 is amended to read:

370.140. [(1)] After having entered the order as provided in ORS 370.130, the county court shall cause the bonds to be issued [*in denominations of \$50 or multiples thereof, up to \$1,000, advertise such amount of them for sale as in its judgment is necessary and thereafter from time to time make such additional sale of bonds so issued as is necessary*] **as prescribed in ORS chapter 287**.

[(2) *Bond sales shall be made through bids received upon such advertisement as the county court deems necessary to afford the best means of procuring the highest prices for the bonds.*]

[(3) *All bids shall be in writing and publicly opened at a time and place specified in the advertisement.*]

[(4) *Whatever other means of advertising the sale of bonds the county court may adopt, it shall advertise the sale for at least three weeks in two newspapers printed in the county, if there are that many, and if there is but one such newspaper, then in it.*]

[(5) *The bonds shall be sold to the highest bidder, but preference shall be given to the citizens of the county.*]

[(6) *If the county court is not satisfied with the bids, it may reject any or all of them.*]

[(7) *The county court shall determine the interest rate.*]

**SECTION 176.** ORS 370.160 is amended to read:

370.160. In its discretion, the county court further may issue either term bonds or the serial bonds mentioned in ORS 370.150 with the option of redeeming them on and after certain interest-paying dates specified by the county court in the bonds. [*Notice of redemption shall be given in the manner specified in the bonds, as provided in ORS 288.520. Newspaper publication of notice of redemption is not required for bonds that are in registered form. These callable bonds either may be*

called and paid pursuant to the optional redemption privilege or may be called and refunded pursuant to ORS 287.202 to 287.220.]

**SECTION 177.** ORS 383.023 is amended to read:

383.023. (1) In accordance with the applicable provisions of ORS [286.010, 286.020, 286.105 to 286.135 and ORS chapter 288] **chapter 286**, the State Treasurer, at the request of the Department of Transportation, may issue revenue bonds for the purpose of financing a tollway project, provided that such bonds shall never constitute a debt or general obligation of the department or of this state or any of its political subdivisions, but shall be payable solely from the revenues, amounts, funds and accounts described in ORS 383.009 (3).

(2) The proceeds of revenue bonds issued under this section may be used by the department or loaned to a private entity or a unit of government for the purpose of financing any portion of the capital costs related to the construction of a tollway project, including costs of the acquisition of interests in land upon which the tollway project will be constructed, to provide a financial reserve required under any federal funding agreement and for the payment of the costs of issuing the bonds and funding bond reserves.

(3) The bonds authorized by this section may be issued [by the department] as taxable bonds or as tax-exempt bonds under the income tax laws of the United States.

(4) Notwithstanding the status of the bonds for federal income tax purposes, interest paid to the owners of the bonds shall be exempt from personal income taxes imposed by this state.

(5) When issuing bonds authorized by this section, the department and the State Treasurer may make covenants with bondholders regarding the imposition and regulation of tolls, the making of loans and grants funded from the State Tollway Account, the use of amounts required to be deposited in the State Tollway Account and the issuance of additional bonds.

**SECTION 178.** ORS 383.027 is amended to read:

383.027. (1) [In accordance with the provisions of ORS 288.805 to 288.945, a municipality, as defined in ORS 288.805,] **A public body, as defined in section 42 of this 2007 Act, but not including a people's utility district organized under ORS chapter 261**, may issue revenue bonds for the purpose of financing a tollway project.

(2) A nonprofit corporation organized under Oregon law may issue revenue bonds for the purpose of financing a tollway project.

**(3) Revenue bonds authorized by this section shall be issued as prescribed in ORS chapter 287.**

**SECTION 178a.** ORS 390.063 is amended to read:

390.063. The Legislative Assembly declares that the purpose of ORS 390.060 to 390.067 is to authorize lottery bonds for state park projects. The lottery bonds authorized by ORS 390.060 to 390.067 shall be issued pursuant to ORS 286.560 to 286.580 [and 348.716]. The obligation of the State of Oregon with respect to the bonds and with respect to any grant agreement or other commitment authorized by ORS 267.334, 285B.410, 285B.422, 285B.482, 285B.530 to 285B.548 and 390.060 to 390.067 shall at all times be restricted to the availability of unobligated net lottery proceeds, proceeds of lottery bonds and any other amounts specifically committed by ORS 286.560 to 286.580 [and 348.716]. Neither the faith and credit of the State of Oregon nor any of its taxing power shall be pledged or committed to the payment of lottery bonds or any other commitment of the State of Oregon authorized by ORS 390.060 to 390.067.

**SECTION 179.** ORS 391.140 is amended to read:

391.140. (1) In accordance with [any applicable provisions of ORS 286.010, 286.020, 286.105 to 286.135 and ORS chapter 288] **ORS chapter 286**, the State Treasurer, at the request of the Director of Transportation, shall issue revenue bonds from time to time in an aggregate amount not to exceed:

(a) The principal sum of \$115 million;

(b) The costs incurred in connection with the issuance of the bonds and other administrative expenses of the State Treasurer in connection with the issuance of the bonds; and

(c) The amount of any reserves determined to be necessary or advantageous in connection with the revenue bonds.

(2) The Director of Transportation shall submit to the State Treasurer from time to time written requests to issue the revenue bonds in amounts sufficient to provide in a timely fashion the moneys required to fund the obligations of the Department of Transportation under any written agreements or commitments entered into under ORS 391.120 (2) for the purpose of financing the state share of the costs of the Westside corridor light rail project identified in ORS 391.120 (2)(a).

(3) Moneys received from the issuance of revenue bonds, including any investment earnings thereon, may be expended only for the purpose of financing the costs of development, acquisition and construction of the Westside corridor light rail project identified in ORS 391.120 (2)(a), and to pay the costs of issuing the bonds and other administrative expenses of the State Treasurer in carrying out the provisions of ORS 391.120 and this section, including the funding of any reserves determined to be necessary or advantageous in connection with the revenue bonds.

(4) Notwithstanding [ORS 288.825] **sections 8 and 17 to 19 of this 2007 Act** or any other provision of law, revenue bonds issued under this section, regardless of whether issued in one or more issues, shall be secured equally and ratably by the pledge of moneys described in this subsection and ORS 391.130. The bonds shall be secured by a pledge of, and a lien on, and shall be secured and payable only from, moneys on deposit from time to time in the Regional Light Rail Extension Construction Fund established by ORS 391.120. The revenue bonds shall not be a general obligation of this state, and shall not be secured by or payable from any funds or assets of this state other than the moneys on deposit from time to time in the Regional Light Rail Extension Construction Fund.

(5) The moneys in the Regional Light Rail Extension Bond Account shall be used and applied by the Director of Transportation to pay when due the principal of and interest on any revenue bonds issued under this section.

(6) The interest on all revenue bonds issued under this section and on any [refunding and advance] refunding bonds issued [under ORS 286.051] **pursuant to ORS chapter 286** is exempt from personal income taxation imposed by this state under ORS chapter 316.

(7) The proceeds derived from the issuance and sale of the revenue bonds, including any proceeds required to fund any reserves determined to be necessary or advantageous in connection with the revenue bonds, shall be deposited in a special, segregated subaccount of the Regional Light Rail Extension Construction Fund. The moneys on deposit from time to time in the subaccount, including any investment earnings thereon, shall be disbursed as needed for the purposes described in subsection (3) of this section upon the written request of the Director of Transportation.

**SECTION 180.** ORS 401.844 is amended to read:

401.844. (1) For the purpose of carrying into effect the powers granted by ORS 401.818 to 401.857, as well as refunding outstanding obligations, a 9-1-1 communications district, when authorized by a majority of the votes cast at an election by electors of the district, may borrow money and sell and dispose of general obligation bonds.

(2) The general obligations outstanding at any one time shall never exceed in aggregate principal amount one percent of the real market value of all taxable property within the district computed in accordance with ORS 308.207.

(3) The bonds shall mature serially not more than 30 years from the issue date and shall be issued [and sold in the manner] **as** prescribed in ORS [287.014 to 287.028] **chapter 287**.

**SECTION 181.** ORS 407.415 is amended to read:

407.415. In order to provide funds for the purposes specified in Article XI-A of the Oregon Constitution, **the Department of Veterans' Affairs may request the State Treasurer to issue** bonds [may be issued] in accordance with the provisions of ORS [286.031 to 286.061] **chapter 286**. [Bonds issued under this section may be issued on a federally tax exempt or taxable basis. Bonds issued on a federally tax exempt basis may be issued under any applicable provisions of the Internal Revenue Code as may be determined by the Department of Veterans' Affairs. The department shall enter into such covenants and agreements with bondholders as may be necessary or appropriate to maintain the federally tax exempt status of interest on bonds issued on a federally tax exempt basis.]

**SECTION 182.** ORS 407.425 is amended to read:

407.425. *[In issuing bonds under ORS 407.415, the State Treasurer may structure an issue of bonds with regard to amounts, maturity dates, interest rates and such other terms and conditions of the bonds.]* **The Department of Veterans' Affairs shall request the State Treasurer to issue bonds as provided in ORS chapter 286 whenever the department determines that bonds are to be issued under ORS 407.415.** In order to meet the specific requirements of a selected group of applicants for loans under this chapter and before asking the State Treasurer to structure an issue of bonds under this authority, the Department of Veterans' Affairs may consider factors including, but not limited to, the number of applications and loans on hand, the amount of debt that will be financed or refinanced by the issue, directly or indirectly, the solvency of the program as a whole, the current value of money, the condition of the tax exempt and taxable bond markets and the effect of the issue on all veterans.

**SECTION 183.** ORS 407.435 is amended to read:

407.435. Notwithstanding the general obligation and revenue bond limits required by *[ORS 286.525, on behalf of the Department of Veterans' Affairs]* **section 9 of this 2007 Act**, the State Treasurer may issue general obligation bonds **on behalf of the Department of Veterans' Affairs** in an amount not to exceed the amount reasonably expected to be advanced for the payment of taxes for veterans each tax year. Such bonds shall mature in no more than 18 months and may be sold *[at public competitive bid or private negotiated sale,]* as determined by the State Treasurer.

**SECTION 184.** ORS 407.525 is amended to read:

407.525. *[If, at any time, there are applications for loans aggregating a total in excess of the money available therefor in the Oregon War Veterans' Fund,]* The Department of Veterans' Affairs may transfer *[to said fund any]* moneys in the sinking account, except those derived from tax levies and those received from the sale of refunding bonds, **to the Oregon War Veterans' Fund for the home and farm loan purposes of the Oregon War Veterans' Fund or pay the moneys directly from the sinking fund for the home and farm loan purposes of the Oregon War Veterans' Fund.** When sufficient *[funds]* moneys are available in the Oregon War Veterans' Fund, the department may transfer back to the sinking account an amount not exceeding the total *[so]* transferred from the sinking account to the Oregon War Veterans' Fund **or paid directly from the sinking fund for the home and farm loan purposes of the Oregon War Veterans' Fund.**

**SECTION 185.** ORS 440.390 is amended to read:

440.390. All general obligation bonds issued under ORS 440.375 shall be *[advertised and sold as provided in ORS 287.014 to 287.022 for the sale of city bonds]* **issued as prescribed in ORS chapter 287.**

**SECTION 186.** ORS 450.640 is amended to read:

450.640. (1) Except as otherwise provided in this section, a joint water and sanitary authority possesses all the duties, functions and powers granted to water authorities and to sanitary authorities under ORS 450.600 to 450.989.

(2) *[Notwithstanding ORS 450.895, a joint water and sanitary authority is a municipality for the purposes of ORS 288.805 to 288.945, and]* Revenue bonds issued by a joint water and sanitary authority shall be issued *[in accordance with ORS 288.805 to 288.945]* **as prescribed in ORS chapter 287.**

**SECTION 187.** ORS 450.690 is amended to read:

450.690. A water authority is a *[municipality]* **public body** for the purposes of ORS *[288.805 to 288.945]* **chapter 287**, and revenue bonds issued by a water authority shall be issued in accordance with ORS *[288.805 to 288.945]* **chapter 287.**

**SECTION 188.** ORS 450.915 is amended to read:

450.915. *[(1)]* If, at the bond election, a majority of the votes cast is in favor of the issuance of bonds, the board may issue *[and sell the bonds as provided in this section]* **the bonds as prescribed in ORS chapter 287.**

*[(2)]* *The bonds shall be in such denominations of \$500 or \$1,000, or multiples thereof, as the board determines.]*

[3] *All bonds shall be payable in lawful money of the United States at the office of the county treasurer of the county in which the authority, or the largest area thereof, is situated.*]

[4] *If the bonds are revenue bonds, the bonds shall contain a statement that such bonds are payable solely out of designated revenues of the authority and are not general obligations of the authority or a charge upon the tax revenues of the authority.*]

[5] *The bonds shall be signed by the chairperson of the board and countersigned by the manager of the authority. However, the printed or lithographed facsimile signatures of the chairperson and manager may be affixed to coupons, if any, on the bonds.*]

[6] *All legally authorized and issued general obligation bonds or revenue bonds shall be advertised and sold in the manner prescribed in ORS 287.014 to 287.022.*]

**SECTION 189.** ORS 450.925 is amended to read:

450.925. (1) The board may, without authorization from the electors, issue refunding bonds for the purpose of refunding outstanding bonds issued under ORS 450.895 to 450.920.

(2) The provisions of [ORS 450.915 (2) to (6)] **sections 54 to 59 of this 2007 Act** are applicable to refunding bonds issued and sold under this section.

(3) The refunding bonds may be issued to refund bonds originally issued or to refund bonds previously issued for refunding purposes and for no other purpose.

**NOTE:** Sections 190 and 191 were deleted by amendment. Subsequent sections were not re-numbered.

**SECTION 192.** ORS 451.545 is amended to read:

451.545. (1) The district may, when authorized by a majority of the votes cast at an election by electors of the district, issue general obligation bonds for the purpose of paying the cost of acquisition or construction of service facilities. Each issue of general obligation bonds shall be the general obligation of the district and the principal and interest on the bonds shall be paid by the district by assessments, charges, or ad valorem taxes imposed or levied within the district as may be determined by the governing body of the district under ORS 451.490. Bonds authorized by this section shall be issued in accordance with ORS [287.052 to 287.074] **chapter 287**, except as otherwise provided in this section.

(2) In addition to the authority to issue general obligation bonds, the district, when authorized at any properly called election, shall have the power to sell and dispose of revenue bonds, and to pledge as security for the bonds all or any part of the unobligated net revenue of the district to purchase, acquire, lay out, construct, reconstruct, extend, enlarge or improve service facilities. The revenue bonds shall be issued *[in the same manner and form as are general obligation bonds of the district]* **as prescribed in ORS chapter 287**, but they are payable, both as to principal and interest from revenues only, as specified by this section. The revenue bonds are not subject to the percentage limitation applicable to general obligation bonds and are not a lien upon any of the taxable property within the boundaries of such district, but are payable solely from such part of the revenues of the district as remain after payment of obligations having a priority and of all expenses of operation and maintenance of the district. All revenue bonds shall contain a clause reciting that both the principal and interest are payable solely from operating revenues of the district remaining after paying such obligations and expenses.

(3) The district's total outstanding bonds of all kinds, including improvement bonds of the kind authorized by ORS 223.205 and 223.210 to 223.295, shall at no time exceed in the aggregate 13 percent of the real market value of all property by law assessable for state and county purposes within the district as reflected in the last roll certified under ORS 311.105.

**SECTION 193.** ORS 456.185 is amended to read:

456.185. [(1)] Bonds of an authority [shall] **must** be authorized by its resolution adopted by a vote of a majority of the commissioners, [and may] **must** be issued *[in one or more series]* **as prescribed in ORS chapter 287 and are not subject to the requirements of section 46 of this 2007 Act.**

[(2)] *The bonds shall bear such dates, mature at such times, bear interest at such rates, be in such denominations, be in such form, either coupon or registered, carry such conversion or registration*

*privileges, have such rank or priority, be executed in such manner, be payable in such medium of payments, at such places, and be subject to such terms of redemption, with or without premium, as such resolution, its trust indenture or mortgage may provide. Bonds of an authority may be issued in zero coupon form or subject to federal taxation of interest thereon if the resolution authorizing issuance so provides.]*

*[(3) The bonds may be sold at public sale held after notice published once at least five days prior to such sale in a newspaper having a general circulation in the area of operation and in a financial newspaper published in San Francisco, California, or in New York, New York. However, at the discretion of an authority, if the resolution authorizing issuance so provides, the bonds may be sold on a negotiated basis or at private sale without any public advertisement.]*

**SECTION 194.** ORS 456.190 is amended to read:

456.190. *[(1) In case any of the commissioners or officers of the housing authority whose signatures appear on any bonds or coupons cease to be commissioners or officers before the delivery of such bonds, the signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if the commissioners or officers had remained in office until delivery. Any law to the contrary notwithstanding, bonds issued pursuant to the Housing Authorities Law are fully negotiable.]*

*[(2)] In any suit, action or proceedings involving the validity or enforceability of any bond of an authority or the security therefor, any [such] bond reciting in substance that it has been issued by the authority to aid in financing a housing project to provide housing for persons or families of lower income is conclusively deemed to have been issued for a housing project of such character and said project is conclusively deemed to have been planned, located and constructed in accordance with the Housing Authorities Law.*

**SECTION 195.** ORS 456.230 is amended to read:

456.230. Bonds of an authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities. The bonds, together with interest thereon and income therefrom, are exempt from **personal income taxes under ORS chapter 316.**

**SECTION 196.** ORS 456.519 is amended to read:

456.519. In order to provide funds for the purposes specified in Article XI-I(2) of the Oregon Constitution, including those specified in ORS 456.539, **the Director of the Housing and Community Services Department may request the State Treasurer to issue** bonds *[may be issued]* in accordance with the provisions of ORS *[286.031 to 286.061]* **chapter 286.**

**SECTION 197.** ORS 456.543 is amended to read:

456.543. (1) The Housing and Community Services Department shall maintain, with the State Treasurer, an Elderly and Disabled Housing Sinking Fund, separate and distinct from the General Fund. The Elderly and Disabled Housing Sinking Fund shall provide for the payment of the principal and interest upon bonds issued under authority of Article XI-I(2), Oregon Constitution, and ORS 456.515 to 456.725. Moneys in the sinking fund are continuously appropriated to the department for such purpose. *[With the approval of the department, the]* Moneys in the Elderly and Disabled Housing Sinking Fund may be invested **by the State Treasurer** as provided by ORS 293.701 to 293.820<sup>1</sup>*[, and earnings from the investment]* **and section 7 of this 2007 Act or, with the approval of the State Treasurer, by the Director of the Housing and Community Services Department through a trustee. Investment earnings** shall be credited to the Elderly and Disabled Housing Sinking Fund.

(2) The Elderly and Disabled Housing Sinking Fund shall consist of:

(a) All moneys received from contract or loan proceeds;

(b) Bond reserves;

(c) Other funds available for these purposes; and

(d) If necessary, state ad valorem taxes provided by Article XI-I(2), Oregon Constitution, and by ORS 456.515 to 456.725.

(3) The Elderly and Disabled Housing Sinking Fund shall not be used for any purpose other than that for which the fund was created provided, however, that amounts on deposit in the fund may be applied to the payment of operating and administrative expenses of the department, **including**

**bond issuance, administration and repayment costs**, allocable to its elderly and disabled housing program under ORS 456.515 to 456.725, and for transfers under subsections (4) and (5) of this section. Should a balance remain therein after the purposes for which the fund was created have been fulfilled or after a reserve sufficient to meet all existing obligations and liabilities of the fund has been set aside, the surplus remaining may be transferred to the Elderly and Disabled Housing Fund at the direction of the department.

(4) The Director of the Housing and Community Services Department may transfer moneys from the Elderly and Disabled Housing Sinking Fund, with the approval of the State Treasurer, for the purpose of financing multifamily housing for the elderly and the disabled. The State Treasurer shall approve such request if:

(a) The cash flow projection *[required by ORS 286.105]* **under section 4 of this 2007 Act associated with the bonds** shows that, for the term of the bonds outstanding at the time the director transfers the moneys, remaining moneys in the sinking fund, together with expected loan proceeds and fund earnings, will continue to be adequate to pay bond principal, interest and administrative costs; and

(b) The transfer will not create the need for issuance of any bonds.

(5) The director shall deposit loan prepayments in the Elderly and Disabled Housing Fund, and lend such prepayments for the purpose of financing multifamily housing for the elderly and the disabled for a term not exceeding the term of the bonds associated with the loan that was prepaid, if the director determines that such a deposit and loan will not adversely affect the ability of the department to pay outstanding bonds.

**SECTION 198.** ORS 456.615 is amended to read:

456.615. As used in ORS 456.550 to 456.725, unless the context requires otherwise:

(1) "Bonds" means any bonds, *[notes or]* **as defined in section 2 of this 2007 Act, or any other evidence of indebtedness, *[including notes or other evidence of indebtedness issued in anticipation of the issuance of bonds and payable from the proceeds of bonds issued,]*** issued under ORS 456.515 to 456.725 **or issued in anticipation of bonds and payable from the proceeds of bonds issued.**

(2) "Capital reserve account" or "capital reserve accounts" means one or more of the special trust accounts that may be established by the Housing and Community Services Department within the Housing Finance Fund.

(3) "Housing finance bond declaration" means a written instrument signed by the Director of the Housing and Community Services Department and on file with and bearing the certificate of approval of the State Treasurer **or the designee of the State Treasurer**, and all housing finance bond declarations supplemental thereto.

(4) "Consumer housing cooperative" means a cooperative corporation formed under ORS chapter 62 and whose articles of incorporation provide, in addition to the other requirements of ORS chapter 62, that:

(a) The consumer housing cooperative has been organized exclusively to provide housing facilities for persons and families of lower income and such social, recreational, commercial and communal facilities as may be incidental to such housing facilities.

(b) All income and earnings of the consumer housing cooperative shall be used exclusively for consumer housing cooperative purposes and that no unreasonable part of the net income or net earnings of the cooperative shall inure to the benefit or profit of any private individual, firm, corporation, partnership or association.

(c) The consumer housing cooperative is in no manner controlled or under the direction of or acting in the substantial interest of any private individual, firm, corporation, partnership or association seeking to derive profit or gain therefrom or seeking to eliminate or minimize losses in any transaction therewith, except that such limitation shall apply to the members of the cooperative only to the extent provided by rules of the department.

(d) The operations of the consumer housing cooperative may be supervised by the department and that the consumer housing cooperative shall enter into such agreements with the department as the department may require to provide regulation by the department of the planning, development

and management of any housing project undertaken by the cooperative and the disposition of the property and other interests of the cooperative.

(5) "Development costs" means the costs that have been approved by the department as appropriate expenditures and includes, but is not limited to payments for options to purchase property for the proposed housing project site, deposits on contracts of purchase, payments for the purchase of property as approved by the department, legal, organizational and marketing expenses including payment of attorney fees, managerial and clerical staff salaries, office rent and other incidental expenses, payment of fees for preliminary feasibility studies, advances for planning, engineering and architectural work; expenses for surveys as to need and market analyses; and such other expenses incurred by the qualified housing sponsor as the department may deem necessary under ORS 456.550 to 456.725.

(6) "Elderly" means a person or a family whose head of the household is 58 years of age or older, residing in the state, whose income is below the level that the department has determined to be necessary in order to obtain in the open market decent, safe and sanitary housing, including the costs of utilities and taxes, for 25 percent of the gross income of the household.

(7) "Federally insured security" means an evidence of indebtedness insured or guaranteed as to repayment of principal and interest by the United States or an agency or instrumentality thereof.

(8) "Housing development" means a development that contains housing units for persons or families of lower income and such other incidental elements of residential, commercial, recreational, industrial, communal or educational facilities as the department determines improve the quality of the development as it relates to housing for persons or families of lower income and the financial feasibility of the development. Not more than 50 percent of the total amount of any financing provided by the department for a particular development may be used to finance commercial, recreational, industrial, communal or educational facilities. Profits from incidental elements shall be applied to loans due under ORS 456.550 to 456.725.

(9) "Housing Finance Fund" means the Housing Finance Fund established in ORS 456.720 (1).

(10) "Lending institution" means any bank, mortgage banking company, trust company, savings bank, savings and loan association, credit union, national banking association, federal savings and loan association or federal credit unit maintaining an office in this state, or any insurance company authorized to do business in this state.

(11) "Limited dividend housing sponsor" means a corporation, trust, partnership, association, other entity, or an individual. Such mortgagor shall be restricted as to distribution of income and shall be regulated as to rents, charges, rate of return and methods of operation as the department determines necessary to carry out the purposes of ORS 456.550 to 456.725.

(12) "Lower income families or persons" means the elderly and families and persons, residing in this state, whose income is below the level that the department has determined to be necessary in order to obtain in the open market decent, safe and sanitary housing, including the costs of utilities and taxes, for 25 percent of the gross income of such family or person. The term may also include other families or persons where the assistance provided is determined by the director to be incidental to the accomplishment of the department's programs for lower income families or persons. The department, in cooperation with affected local governments, shall determine what constitutes "decent, safe and sanitary housing."

(13) "Manufactured housing" means a dwelling unit manufactured off-site having a minimum width of 10 feet and a minimum area of 400 square feet built on a permanent chassis and designed to be used for permanent residential occupancy whether or not on a permanent foundation, and that contains permanent eating, cooking, sleeping and sanitary facilities and meets such standards as the department determines, by rule, are reasonable to maintain the quality, safety and durability of the dwelling, the sanitary requirements of the communities in which they are located and the security of the loans that the department may finance for the purchase of the dwellings.

(14) "Nonprofit housing corporation" means an organization formed under ORS chapter 65 and whose articles of incorporation provide, in addition to the other requirements of ORS chapter 65, that:

(a) The corporation has been organized exclusively to provide housing facilities for persons and families of lower income and such other social, recreational, commercial and communal facilities as may be incidental to such housing facilities.

(b) All the income and earnings of the corporation shall be used exclusively for corporation purposes and that no part of the net income or net earnings of the corporation may inure to the benefit of any private individual, firm, corporation, partnership or association.

(c) The corporation is in no manner controlled or under the direction or acting in the substantial interest of any private individual, firm, partnership or association seeking to derive profit or gain therefrom or seeking to eliminate or minimize losses in transactions therewith.

(d) The operations of the corporation may be supervised by the department and that the corporation shall enter into such agreements with the department as the department may require to regulate the planning, development and management of any housing project undertaken by the corporation and the disposition of the property and other interests of the corporation.

(15) "Project cost" or "costs of the project" means the sum of all reasonable expenses incurred by a qualified housing sponsor in undertaking and completing a housing project approved by the department. "Project costs" or "costs of the project" include but are not limited to the expenses incurred by a qualified housing sponsor for:

- (a) Studies and surveys;
- (b) Plans, specifications, architectural and engineering services;
- (c) Legal, organizational and other special services;
- (d) Financing, acquisition, demolition, construction, equipment and site development of new and rehabilitated housing units;
- (e) Movement of existing buildings to new sites; the cost of acquisition, or estimated fair market value, of land and other interests in real estate;
- (f) Rehabilitation, reconstruction, repair or remodeling of existing buildings;
- (g) Estimated carrying charges during construction and for a reasonable period thereafter;
- (h) Placement of tenants or occupants and relocation services in connection with the housing project;
- (i) Reasonable builder's or sponsor's profit and risk allowance; and
- (j) Development costs not otherwise included in this subsection.

(16) "Qualified housing sponsor" includes, subject to the approval of the department, a consumer housing cooperative, a limited dividend housing sponsor, a nonprofit housing corporation, a for-profit housing sponsor including, but not limited to, an individual operating in compliance with the criteria adopted by the department under ORS 456.620 (1), a housing authority created by ORS 456.075, an urban renewal agency created by ORS 457.035 and any city or county governing body or agency or department designated by the governing body.

(17) "Residential housing" means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including land development and acquisition, construction or rehabilitation of buildings and improvements thereto, for residential housing, and such other nonhousing facilities as may be incidental or appurtenant thereto and as the department determines improve the quality of the development as it relates to housing for persons or families of lower income and the financial feasibility of the development. Not more than 50 percent of the total amount of any financing provided by the department for a particular development may be used to finance nonhousing facilities. "Residential housing" includes, but is not limited to, a specific work or improvement within this state undertaken to provide mobile home or manufactured dwelling parks as defined in ORS 446.003. As used in this subsection, "land development" includes, but is not limited to, the improvement of streets and alleys and the construction of surface drains, sewers, curbing and sidewalks.

(18) "Residential loan" means a loan for the acquisition, construction, improvement or rehabilitation of residential housing and, if the loan is for acquisition or construction of residential housing, that is secured by a first lien on real property located in the state and improved by a newly constructed, existing or rehabilitated residential structure for lower income persons or families, or un-

improved if the proceeds of such loan shall be used for the erection of a residential structure thereon, whether or not such loan is insured or guaranteed by the United States or any instrumentality or agency thereof. "Residential loan" includes an insured or guaranteed loan for the acquisition of manufactured housing or for the acquisition of a lot described in ORS 92.840 by a manufactured dwelling park tenant. The insured or guaranteed loan need not be secured by a first mortgage on real property but shall be secured by a security interest of first priority. "Residential loan" also includes a loan for the purchase of a proprietary lease and related cooperative shares in a housing cooperative formed under ORS chapter 62 secured by a security interest of first priority and a pledge or an assignment of proprietary leases and related cooperative shares.

(19) "Revolving account" means the Housing and Community Services Department Revolving Account created in ORS 456.574.

**SECTION 199.** ORS 456.625 is amended to read:

456.625. The Housing and Community Services Department may:

(1) Undertake and carry out studies and analyses of housing needs within the state and ways of meeting such needs and make the results of such studies and analyses available to the public, qualified housing sponsors and the private housing sector.

(2) Prepare proposals on measures it considers necessary to address administration, housing programs or community services programs.

(3) With the approval of the State Housing Council, charge fees or interest in connection with housing programs.

(4) Encourage community organizations to assist in initiating housing projects for persons and families of lower income.

(5) Encourage the salvage of usable housing scheduled for demolition or dislocation because of highway, school, urban renewal or other public projects by seeking authority for the public agencies involved in such programs to use the funds provided for the demolition or relocation of such buildings to enable qualified housing sponsors to relocate and rehabilitate such buildings for use by persons and families of lower income.

(6) Encourage research and demonstration projects to develop techniques and methods for increasing the supply of adequate, decent, safe and sanitary housing for persons and families of lower income.

(7) Make or participate in the making of residential loans to qualified individuals or housing sponsors to provide for the acquisition, construction, improvement, rehabilitation or permanent financing of residential housing or housing development; undertake commitments to make residential loans; purchase and sell residential loans at public or private sale; modify or alter such mortgages or loans; foreclose on any such mortgage or security interest or commence any action to protect or enforce any right conferred upon the department by any law, mortgage, security, agreement, contract or other agreement and to bid for and purchase property that is subject to such mortgage or security interest at any foreclosure or other sale; acquire or take possession of any such property and complete, administer, conserve, improve and otherwise use the property to accomplish the department's purposes, pay the principal and interest on any obligations incurred in connection with such property and dispose of such property in such manner as the department determines necessary to protect its interests under ORS 456.515 to 456.725 and ORS chapter 458.

(8) Unless specifically exempted by the State Treasurer, deposit with the State Treasurer any funds held in reserve or sinking funds under ORS 456.515 to 456.725 and ORS chapter 458 and any other moneys not required for immediate use or disbursement by the department, subject to the provisions of any agreement with holders of bonds entered into prior to October 15, 1983.

(9) Advise and assist in the creation of any nonprofit housing corporation, consumer housing cooperative or limited dividend housing sponsor and give approval of the articles of incorporation and bylaws of any such organization in carrying out ORS 456.515 to 456.725.

(10) Cooperate with and exchange services, personnel and information with any federal, state or local governmental agency.

(11) **With the approval of the State Treasurer**, contract for the services of and consultation with **trustees, investment and financial advisors, paying agents, remarketing agents and other** professional persons or organizations[, *not otherwise available through federal, state or local governmental agencies.*] in carrying out ORS 456.515 to 456.725 and ORS chapter 458.

(12) Contract for, act on or perform any other duties that the department considers necessary or appropriate to carry out housing programs and community services programs.

(13) Purchase, service, sell and make commitments to purchase, service and sell residential loans to the extent permitted by ORS 456.635 and 456.640 (1) to (3).

(14) Initiate or assist appropriate state agencies, governmental bodies and public or private housing sponsors in the development, construction, acquisition, ownership, leasing, rehabilitation or management of housing to carry out the purposes of ORS 456.515 to 456.725 and ORS chapter 458 where such housing is not otherwise affordable or available in the area.

(15) Execute and record written instruments that contain terms, including but not limited to restrictive covenants or equitable servitudes, pertaining to the use and enjoyment of housing projects. Notwithstanding any other provision of law, the executed instruments shall constitute and create restrictive covenants affecting and running with the property according to the terms of the instruments when recorded in the records of the county where the property is located. County clerks shall accept the instruments for recording when presented by or on behalf of the department.

(16) Subject to the provisions of any agreement then existing with bondholders, make available funds by contract, grant, loan or otherwise, including loan guarantees, insurance or other financial leveraging techniques, from moneys made available by the department to carry out the purposes of ORS 456.515 to 456.725, if such moneys are not needed for the operations of the department or otherwise determined by the director to be a necessary or prudent reserve.

**SECTION 200.** ORS 456.645 is amended to read:

456.645. (1) The State Treasurer, at the request of the Housing and Community Services Department, from time to time, may issue and sell bonds in the name of and on behalf of the State of Oregon in compliance with the applicable provisions of ORS [286.010, 286.020, 286.031 to 286.061 and 286.105 to 286.135] **chapter 286** in the principal amount the department considers necessary to carry out the purposes of ORS 456.550 to 456.725, or for paying or refunding any bonds previously issued by the department for such purposes.

(2) All bonds shall be special revenue obligations of the State of Oregon, and, unless paid from the proceeds of other bonds, shall be payable as to principal, redemption premium, if any, and interest, solely from the revenues, assets or funds in the Housing Finance Fund as may be pledged therefor, subject to existing agreements with the holders of any bonds, in accordance with any housing finance bond declaration. Bonds may be paid from any source available under ORS 456.515 to 456.725, including but not limited to:

(a) From the income and revenues of the housing project or projects financed with the proceeds from the sale of such bonds or with such proceeds together with other moneys available to the department under ORS 456.550 to 456.725 or other moneys or grants from the federal government in aid of such projects.

(b) From the income and revenues of certain designated housing projects, whether or not financed with the proceeds from the sale of such bonds, if such housing projects were financed with moneys available to the department under ORS 456.515 to 456.725.

(c) From funds held in a capital or other reserve account.

(d) From such other funds as deemed adequate in fulfilling the purposes of ORS 456.515 to 456.725.

(e) From the revenues of the department under ORS 456.515 to 456.725, generally.

(3) The department shall maintain accounting records and shall prepare annual financial statements for distribution to existing and potential bond purchasers.

**SECTION 201.** ORS 456.661 is amended to read:

456.661. (1) The aggregate principal amount of bonds issued under ORS 456.645 that may be outstanding is \$2.5 billion, excluding bonds issued under and within the limits provided in ORS

456.515 to 456.725 and any bonds that have been refunded [under ORS 456.650 or advance refunded under ORS 288.605 to 288.690]. The amount of \$30 million of the total \$2.5 billion of bonds authorized under this section or proceeds from the sale of the bonds shall be made exclusively available for making or participating in making residential loans for single-family homes in cities with a population of 300,000 or more in the manner specified in ORS 456.593. No more than \$10 million of the bonds authorized under this section or proceeds from the sale of the bonds shall be made available for residential loans for home improvements.

[2] *For the purpose of determining the aggregate principal amount of bonds issued or outstanding, the value of bonds shall be calculated as follows:]*

[a] *If, upon sale, the initial reoffering price is equal to or more than 98 percent of the maturity value of the bonds, the value of the bonds shall be the maturity value on the date of the calculation.]*

[b] *If, upon sale, the initial reoffering price is an amount less than 98 percent of the maturity value of the bonds, the value of the bonds shall be the price on any date of the calculation that would result in a yield-to-maturity equal to the yield-to-maturity at the time the bonds were sold by the state.]*

[3] *For the purposes of the limitation contained in subsection (1) of this section, the aggregate principal amount of bonds outstanding shall be determined for any date of calculation by subtracting the aggregate value of bonds that would have matured or would have been redeemed through mandatory sinking fund payments from the aggregate value of bonds issued.]*

**(2) Section 15 of this 2007 Act applies for purposes of determining limitations under this section.**

[4] **(3)** The Legislative Assembly finds that:

(a) Pursuant to ORS 456.515 to 456.725, the Housing and Community Services Department has served as the sole department or instrumentality of the state authorized to coordinate and establish statewide priorities for housing programs and to provide planning and technical assistance to sponsors of housing for persons and families of lower income throughout the state.

(b) The department's activities have been instrumental in alleviating the serious shortage of decent, safe and sanitary housing for lower income persons.

(c) Continuation of the department's programs for financing owner-occupied residential housing to the fullest extent practicable under the Internal Revenue Code is a matter of paramount concern to the state.

[5] **(4)** The department shall designate areas of chronic economic distress within the state for the purpose of issuing qualified mortgage bonds as described in section 143 of the Internal Revenue Code.

**SECTION 202.** ORS 456.670 is amended to read:

456.670. Bonds issued by the State Treasurer shall mature at the time or times not exceeding 47 years from the date of issue as shall be stated in the housing finance bond declaration. [Notwithstanding ORS 286.056 and 286.058, bonds issued by the State Treasurer may be sold at private or public sale at such price or prices as the State Treasurer, upon the advice of the Housing and Community Services Department, may prescribe.] Notwithstanding the provisions of any other law, the rates of interest payable and discount, if any, with respect to bonds issued under ORS 456.550 to 456.725 shall be determined by the State Treasurer, upon the advice of the department. The bonds shall be executed [by the Governor, the Secretary of State and the State Treasurer] in the manner set forth in ORS [286.031 to 286.061] **chapter 286.**

**SECTION 203.** ORS 456.700 is amended to read:

456.700. Any pledge, commitment or reservation of funds made by the Housing and Community Services Department under ORS 456.515 to 456.725 [shall be] **is** valid and binding from the date on which the pledge was executed **as provided in section 18 of this 2007 Act.** [Any money or property pledged in return for such a commitment shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act by the department.] The lien of [any such] **the** pledge [shall be] **is** valid and binding as against all parties having any claims in tort, contract or otherwise against the department whether or not [such] **the** parties have notice of the lien. [No instrument creating a pledge under ORS 456.515 to 456.725 need be recorded.]

**SECTION 203a.** ORS 456.720 is amended to read:

456.720. (1) The Housing Finance Fund is established, separate and distinct from the General Fund. The fund shall consist of the proceeds from the sale of bonds issued under ORS 456.645 and [456.650] **related refunding bonds**, fees and other moneys received by the Housing and Community Services Department under ORS 456.550 to 456.725, moneys appropriated by the state for use by the department in carrying out ORS 456.550 to 456.725 and moneys made available from any other source for use by the department under ORS 456.550 to 456.725.

(2) Except as otherwise provided in this section, moneys in the fund may be expended by the department for the purposes authorized in ORS 456.550 to 456.725. Except as otherwise provided in this section for a capital reserve account, the department may establish one or more accounts within the fund for use in carrying out ORS 456.550 to 456.725.

(3) There may be established within the Housing Finance Fund capital reserve accounts. A capital reserve account shall consist of the aggregate of moneys retained by the department, pursuant to existing agreements with the bondholders, as the annual debt service reserve, as described in ORS 456.655 (1), for each bond issue sold by the department under ORS 456.645 [or 456.650]. All moneys in the account for an issue which the department has determined a debt service reserve is required shall be used solely for the payment of the principal and interest on the bonds as they mature, the purchase of such bonds, the payment of interest on such bonds and the payment of any redemption premium required to be paid by the department when any such bonds are redeemed prior to maturity. Moneys in the account may not be withdrawn therefrom at any time in such amount as would reduce the amount of moneys in the account below the maximum amount of principal and interest maturing and becoming due in the succeeding fiscal year on all such bonds then outstanding, except for the purpose of paying principal of and interest and premium, if any, on the bonds of the department maturing and becoming due and for the payment of which other moneys in the Housing Finance Fund are not available.

(4) Except as otherwise provided in existing agreements with bondholders, any income or interest earned by or accruing to the capital reserve account because of the investment by the department of moneys within the account may be retained by the department in the fund to apply to any future deficiency that may occur or may be used by the department for the repayment of moneys in the revolving account that were expended by the department pursuant to ORS 456.574 (2)(b).

(5) In order to assure the continual operation and maintenance of the capital reserve account in the Housing Finance Fund and to carry out ORS 456.550 to 456.725, if the amount of money on deposit in the capital reserve account in any year is less than the debt service reserves described in ORS 456.655 (1), the Director of the Housing and Community Services Department shall certify to the Governor and the Legislative Assembly or, during the interim, to the Emergency Board the amount needed to restore the account to its required debt service reserves. The amount so certified by the director may be appropriated by the Legislative Assembly or, during the interim, allocated by the Emergency Board and paid to the department during the then current fiscal year for deposit in the capital reserve account.

(6) For the purposes of this section, the department shall annually value investments in the capital reserve account at the amortized cost of the investments.

(7) There is established within the Housing Finance Fund a Housing Development Account. Moneys in this account are hereby continuously appropriated to carry out the purposes of ORS 456.515 to 456.725 by contract, grant, loan or as otherwise determined necessary by the department.

(8)(a) The Housing Development Account shall consist of moneys deposited or received by the department for the purposes of this account from whatever source. Of the moneys deposited into the account:

(A) The department shall not use moneys from its own resources for administrative expenses; and

(B) The department may use moneys from other sources for administrative expenses only to the extent provided by those sources.

(b) The department may return moneys received or deposited in the account to the original source of the moneys, as the director determines necessary.

(9) Except as otherwise stipulated by the source of funds, any income or interest earned by or accruing to the Housing Development Account because of the investment by the department of moneys in the account may be retained by the department for the uses of the account.

(10) The department may enter into agreements regarding use of moneys received for the Housing Development Account with the source of the moneys, and may comply with the provisions of such agreements.

**SECTION 203b.** ORS 458.720 is amended to read:

458.720. (1) Pursuant to ORS 286.560 to 286.580 [*and 348.716*], lottery bonds may be issued to make grants or loans to Oregon municipalities, businesses and individuals to encourage real estate developments that promote downtown and community center areas, provide affordable housing and other infill developments, and fund projects that promote business opportunities in Oregon's distressed areas and rural communities.

(2) The use of lottery bond proceeds is authorized based on the following findings:

(a) The grants and loans made will be used to fund projects that assist Oregon communities in managing growth, thereby attracting industry and workers and improving Oregon's labor market; and

(b) The projects will bring jobs and economic diversity to Oregon's distressed areas and rural communities.

(3) The aggregate principal amount of lottery bonds issued pursuant to this section may not exceed the sum of \$25 million and an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs. Lottery bonds issued pursuant to this section shall be issued only at the request of the Director of the Housing and Community Services Department.

(4) The net proceeds of lottery bonds issued pursuant to this section shall be deposited in the Community Development Incentive Project Fund, which is hereby established in the State Treasury separate and distinct from the General Fund.

(5) The proceeds of lottery bonds issued pursuant to this section shall be used only for the purposes set forth in subsection (1) of this section and for bond-related costs.

(6) Interest earned by the Community Development Incentive Project Fund shall be credited to the fund or to the Housing Development and Guarantee Account, as determined by the director. In addition to any other moneys specifically designated by law, the fund shall consist of any amounts appropriated by the Legislative Assembly and any gifts, grants or donations.

**SECTION 204.** ORS 468.195 is amended to read:

468.195. In order to provide funds for the purposes specified in Article XI-H of the Oregon Constitution, **the Department of Environmental Quality may request the State Treasurer to issue** bonds [*may be issued*] in accordance with the provisions of ORS [*286.031 to 286.061*] **chapter 286**. The principal amount of the bonds outstanding at any one time, issued under authority of this section, shall not exceed \$260 million par value.

**SECTION 205.** ORS 468.437 is amended to read:

468.437. (1) Any public agency desiring a loan from the Water Pollution Control Revolving Fund shall submit an application to the Department of Environmental Quality on the form provided by the department. The department may require an opinion from [*the State of Oregon*] **the department's bond counsel or other counsel** that the applicant has the legal authority to borrow from the Water Pollution Control Revolving Fund. If a public agency relies on borrowing authority granted by charter or law other than ORS 468.439, then with the consent of the department and notwithstanding any limitation or requirement of the charter or law, the public agency may borrow directly from the Water Pollution Control Revolving Fund **by issuing revenue bonds to the department. The requirements of section 46 of this 2007 Act do not apply to revenue bonds that are sold to the department pursuant to this section.** [*without publishing a notice of sale, providing an official statement or following any other procedures designed to provide notice or information*]

to potential lenders. The requirements of ORS 288.845 shall not apply to revenue bonds that are sold to the department.]

(2) Any public agency receiving a loan from the Water Pollution Control Revolving Fund shall establish and maintain a dedicated source of revenue or other acceptable source of revenue for the repayment of the loan.

(3) If a public agency defaults on payments due to the Water Pollution Control Revolving Fund, the state may withhold any amounts otherwise due to the public agency and direct that such funds be applied to the payments and deposited into the fund. If the department finds that the loan to the public agency is otherwise adequately secured, the department may waive this right in the loan agreement or other loan documentation.

**SECTION 206.** ORS 468.439 is amended to read:

468.439. Notwithstanding any limitation contained in any other provision of law or local charter, a public agency may:

(1) Borrow money from the Water Pollution Control Revolving Fund through the Department of Environmental Quality;

(2) Enter into loan agreements and make related agreements with the department in which the public agency agrees to repay the borrowed money in accordance with the terms of the loan agreement;

(3) Covenant with the department regarding the operation of treatment works and the imposition and collection of rates, fees and charges for the treatment works;

(4) Pledge all or part of the revenues of the treatment works to pay the amount due under the loan agreement and notes in accordance with ORS [288.594] **chapter 287**; and

(5) Provide any additional security and exercise any powers permitted to an issuer of revenue bonds under ORS [288.825] **chapter 287**.

**SECTION 207.** ORS 470.225 is amended to read:

470.225. **The State Treasurer shall issue** bonds described in ORS 470.220 to 470.290 [*shall be issued*] in accordance with the applicable provisions of ORS [*chapters 286 and 288*] **chapter 286**. [*The bonds may be sold at a public sale or at a private, negotiated sale in accordance with ORS 286.710.*]

**SECTION 208.** ORS 478.420 is amended to read:

478.420. Bonds authorized under ORS 478.410 shall be issued and sold in the manner prescribed in ORS [287.014 to 287.028] **chapter 287**. [*They*] **The bonds** shall be so conditioned that the district agrees to pay, at the place named, to the bearer the sum named in lawful money of the United States with interest at the rate named, payable semiannually each year in accordance with the terms of interest coupons attached.

**SECTION 209.** ORS 478.845 is amended to read:

478.845. (1) Notwithstanding any other provision of law or any restriction on indebtedness contained in a charter, a city or district may issue and sell revenue bonds under ORS 478.845 to 478.875, loan moneys to qualified persons for the installation of fire safety systems and enter into loan contracts with those persons. Moneys borrowed from the loan fund created by ORS 478.855 shall be repaid by the borrowers in accordance with the terms of the loan contract to which the borrower and the city or district are parties.

(2) In addition to authority granted by other laws to issue revenue bonds, a city or district may sell revenue bonds for the purpose of creating a loan fund to finance the installation of fire safety systems in structures located within the city or district.

(3) Revenue bonds authorized by this section may be issued from time to time and shall be issued [*and sold as provided*] **as prescribed** in ORS [288.805 to 288.945] **chapter 287**.

**SECTION 210.** ORS 478.850 is amended to read:

478.850. (1) Revenue bonds issued under ORS 478.845 to 478.875:

(a) Shall not be payable from nor charged upon any fund other than the revenue pledged to the payment of the revenue bonds [*as provided in ORS 288.825*].

(b) Shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the city or district, except those moneys paid to the loan fund created by ORS 478.855.

(2) No holder of such revenue bonds shall ever have the right to compel any exercise of the taxing power of a city or district to pay the bonds or the interest on the bonds, or to enforce payment of the bonds against any property of the city or district except those moneys pledged in the loan fund created under ORS 478.855.

(3) A revenue bond issued under ORS 478.845 to 478.875 shall not constitute a debt of the city or district within the meaning of any statutory limitation.

**SECTION 211.** ORS 478.855 is amended to read:

478.855. (1) Proceeds of revenue bonds issued and sold under ORS 478.845 to 478.875 that are to be used to fund loans to persons for acquisition and installation of fire safety systems in structures owned by the borrowers shall be deposited in a loan fund created for the purpose by a city or district.

(2) In addition to proceeds from the sale of revenue bonds, the loan fund created by this section shall consist of:

(a) Moneys repaid to the fund by borrowers who received loans from the fund.

(b) Proceeds of the sales of structures acquired by the city or district as a result of loan defaults.

(c) Other *[moneys or]* revenues, **as defined in section 42 of this 2007 Act**, *[described in ORS 288.805 (7)]* as determined by the city or district.

**SECTION 212.** ORS 523.490 is amended to read:

523.490. All general obligation and revenue bonds, including refunding bonds, *[issued]* **authorized** under ORS 523.460 to 523.480 shall be *[advertised and sold in the manner prescribed in ORS 287.014 to 287.022 for the sale of bonds of cities of this state]* **issued as prescribed in ORS chapter 287.**

**SECTION 213.** ORS 530.130 is amended to read:

530.130. (1) In compliance with the applicable provisions of ORS *[286.031 to 286.051 and 286.061]* **chapter 286**, the State Board of Forestry may **request the State Treasurer** to issue the revenue bonds described in ORS 530.140 in exchange for lands selected by it in accordance with ORS 530.010, *or may* **and to** sell such bonds in such manner as *[it]* **the State Treasurer** deems advisable. Should the bonds be sold *[by the board]*, the proceeds shall be paid into the State Treasury and credited to the State Forestry Department Account and shall be expended only by warrant of the Oregon Department of Administrative Services in the payment of vouchers bearing the approval of the board in the purchase of lands, as provided in ORS 530.010.

(2) Lands proposed to be taken in exchange for bonds shall first be appraised by the board and the appraisal approved by the Department of State Lands.

**SECTION 213a.** ORS 530.140 is amended to read:

530.140. (1) The State Board of Forestry may **request the State Treasurer** to sell revenue bonds of the State of Oregon, to be known as Oregon forest development revenue bonds, in an amount *[not exceeding \$500,000 in denominations not exceeding \$1,000 each]* **authorized under section 9 of this 2007 Act.** The bonds shall not constitute a general obligation of the state, nor be a lien on any of the lands acquired by the state under ORS 530.010.

(2) The bonds shall bear interest at a rate to be determined by the *[board]* **State Treasurer.**, *but not to exceed four percent per annum, payable semiannually at the office of the State Treasurer. The bonds shall be numbered consecutively, beginning with number one, and shall be due 50 years from date of issue, but shall be payable when sufficient moneys are available therefor in the State Forestry Department Account, as provided in ORS 530.150.]*

*[(3) The bonds shall be payable to bearer and shall have interest coupons attached, which shall also be payable to bearer. The holder of any such bond may have the ownership of the bond registered with the State Treasurer with respect to the principal of the bond. The registered owner of any bond may have such bond changed to be payable to bearer by filing with the State Treasurer an irrevocable bond power, transferring all rights in the bond to bearer.]*

*[(4) The board shall keep a record of every purchaser of the bonds as originally issued.]*

**SECTION 214.** ORS 530.230 is amended to read:

530.230. In order to provide funds for the purposes specified in Article XI-E of the Oregon Constitution, **the State Board of Forestry may request the State Treasurer to issue** bonds [*may be issued*] in accordance with the provisions of ORS [286.031 to 286.061] **chapter 286**, but the annual issue shall not exceed \$750,000.

**SECTION 215.** ORS 541.780 is amended to read:

541.780. In order to provide funds for the purposes specified in Article XI-I (1) of the Oregon Constitution, **the Water Resources Commission may request the State Treasurer to issue** bonds [*may be issued*] in accordance with the provisions of ORS [286.031 to 286.061] **chapter 286**.

**SECTION 216.** ORS 543.670 is amended to read:

543.670. [*Except as provided in ORS 287.028,*] All revenue bonds issued under ORS 543.665 shall be [*advertised and sold in the manner prescribed in ORS 287.014 to 287.022 for the sale of bonds of cities of this state*] **issued as prescribed in ORS chapter 287, but the requirements of section 46 of this 2007 Act do not apply.**

**SECTION 217.** ORS 545.519 is amended to read:

545.519. (1) Bonds shall be issued in accordance with ORS [288.515 to 288.600] **chapter 287.**

(2) Nothing in this section shall inhibit the district from providing for the irrigation or drainage in units or portions of units from time to time.

(3) The board by resolution entered on its records may cancel any bonds of the district [*which*] **that** have not been sold or deposited as security for funds advanced or to be advanced, and [*which the*] **that this** state, **the** United States or any other person has no claim to or equity in. After the cancellation, the bonds shall not be sold or otherwise disposed of. After cancellation, the bonds shall be invalid and of no effect. The board may not replace bonds canceled under this subsection without authorization of the electors.

**SECTION 218.** ORS 545.541 is amended to read:

545.541. (1) If, after 10 years from the issuance of bonds, the appropriate fund amounts to \$10,000, the board of directors may direct the district treasurer or county treasurer of the principal county, as defined in ORS 198.705, if designated in the bonds, to pay that amount of the bonds not due as the money in the fund will redeem at the lowest value at which they may be offered for liquidation, or the board may call bonds at a premium of three percent, as provided in subsection (2) of this section.

(2) The board may call for payment and retire before maturity any bonds issued in accordance with ORS 545.511, 545.513, 545.515, 545.517 and 545.519, by paying principal and accrued interest and a premium of three percent upon the principal. Notice of intention to do so shall be given by publication in a newspaper published and regularly circulated in the county in which the district lands are situated. The notice shall be printed at least once a week for four successive weeks, beginning not less than 90 days prior to an interest-paying period. The notice shall state the number and amount of the bonds to be retired, the price to be paid, the date of payment and the place where payment is to be made. Bonds shall be retired in numerical order in the manner specified in the bonds[, *as provided in ORS 288.520*]. Newspaper publication of notice of redemption is not required for bonds that are in registered form. Bonds shall not be retired under this section except on a day when interest is payable by the terms of the bonds and on and after the date named in the notice. Interest on bonds described in the notice shall cease after the date named in the notice.

(3) Notwithstanding anything contained in this section, the board may issue bonds [*with the option reserved to the district of redeeming the bonds on and after certain interest-paying dates specified by the board in the bonds, upon giving notice of the redemption in the manner specified in the bonds, as provided in ORS 288.520. Newspaper publication of notice of redemption is not required for bonds that are in registered form*] **in the manner prescribed in ORS chapter 287.**

**SECTION 219.** ORS 552.660 is amended to read:

552.660. All general obligation bonds, including refunding bonds, issued under ORS 552.645 to 552.660 shall be *[advertised and sold in the manner prescribed by ORS 287.014 to 287.022 for the sale of bonds of cities of this state]* **issued as prescribed in ORS chapter 287.**

**SECTION 220.** ORS 553.670 is amended to read:

553.670. *[Notwithstanding anything contained in this section, the board in its discretion may issue any bonds with the option reserved to the district of redeeming the bonds on and after certain interest-paying dates specified by the board in the bonds, upon giving notice thereof in the manner specified in the bonds, as provided in ORS 288.520. Newspaper publication of notice of redemption is not required for bonds that are in registered form.]* **Bonds authorized by this chapter shall be issued in the manner prescribed in ORS chapter 287.**

**SECTION 221.** ORS 565.095 is amended to read:

565.095. (1) In accordance with any applicable provisions of ORS *[286.010, 286.020 and 286.105 to 286.135 and ORS chapter 288]* **chapter 286**, the State Parks and Recreation Director, with the approval of the State Parks and Recreation Commission *[and the State Treasurer]*, may **request the State Treasurer to** issue revenue bonds in an amount not to exceed \$10 million.

(2) Moneys received from the issuance of revenue bonds may be expended for land acquisition, capital construction and improvements and for paying current operating and other expenses of the Oregon State Fair.

(3) Revenue bonds issued pursuant to this section shall be secured by revenues received by the director from activities conducted at the Oregon State Fair, and shall not be a general obligation of the State Parks and Recreation Department or the State of Oregon.

**SECTION 222.** ORS 568.803 is amended to read:

568.803. (1) When authorized by a majority of electors voting at an election called for that purpose by the directors of a soil and water conservation district, the directors may issue general obligation bonds of the district, not exceeding in value the amount stated in the notice of election and for the purpose named in the notice~~], bearing interest at a rate determined by the directors, payable semiannually, redeemable at the time or times as the directors may, at the time of providing for the issuance of the bonds, determine, but due and payable not to exceed 30 years from the date of issuance]~~ **as provided in ORS chapter 287.**

(2) The aggregate amount of general obligation bonds issued and outstanding at any one time may not exceed two and one-half percent of the real market value of all taxable property of the district, computed in accordance with ORS 308.207.

(3) General obligation bonds must recite that they are issued under ORS 568.210 to 568.808. *[All bonds shall be signed by the chairperson of the board of directors, attested by the secretary and registered by the county treasurer.]*

(4) A soil and water conservation district:

(a) Shall issue general obligation bonds authorized under this section as provided in *[ORS 288.010 to 288.110, 288.150 to 288.165 and 288.515 to 288.600 and the applicable provisions of]* ORS chapter 287 *[including, but not limited to, ORS 287.006, 287.007, 287.012 and 287.014 to 287.029]*; and

(b) May issue refunding bonds as provided in ORS *[288.592 and 288.605 to 288.695]* **chapter 287.**

(5) Taxes *[described in ORS 287.006 and 287.007]* that are levied by a soil and water conservation district to pay principal, interest and premium, if any, on general obligation bonds issued pursuant to this section are separate from and in addition to taxes levied pursuant to ORS 568.806.

**SECTION 223.** ORS 777.410 is amended to read:

777.410. (1)(a) For the purpose of carrying into effect any of the powers granted by ORS 777.105 to 777.258, a port may, when authorized so to do by the electors, borrow money and sell and dispose of bonds, which shall constitute a general obligation of the port and be secured by the port's full faith and credit. The bonds shall be secured by the taxing power of the port as provided in ORS 777.430 (2). In addition, the port may provide that the bonds shall be payable from and secured by a lien and pledge of all or any part of the revenues derived by the port from the facilities constructed from the proceeds of the bonds. Bonds outstanding at any one time shall never exceed in

the aggregate two and one-half percent of the real market value of all taxable property within the port, computed in accordance with ORS 308.207.

(b) A port may provide for the creation of special trust funds and may authorize the appointment of a trustee to administer such funds. A port may obligate itself to set aside and pay into a special trust fund any revenues pledged to the payment of bonds. A port, from available funds, may establish and fund debt service, operation and maintenance reserves.

(c) Proceeds from the sale of bonds may be used by a port to pay the costs incurred in issuing the bonds, to pay the costs of preliminary work incident to issuing and selling the bonds, including but not limited to planning, engineering, inspection, accounting, fiscal, legal, trustee and other similar expenses, to pay interest on the bonds for such time as the port may determine, but not exceeding six months beyond completion of the facilities financed with the bonds, and to establish reserves for debt service on the bonds.

(2) Without elector approval the board may, whenever it determines that an emergency exists, issue bonds, within the limitation provided by subsection (1) of this section, in an aggregate amount not exceeding \$100,000 in any period of 12 months. Bonds shall not be issued under this subsection to provide funds for the acquisition of land. Bonds issued under this subsection shall be issued and sold in accordance with subsection (3) of this section but shall mature in such length of time, not exceeding five years, as the board determines.

(3) All bonds issued under this section shall *[bear interest at the rate of percent per annum established by ORS 288.515 to 288.600 and shall be issued on such terms and conditions and at such time or times as the board shall determine. They shall be sold in the manner and under the conditions provided by ORS 777.500. Bonds issued under this section and ORS 777.415 shall be executed in behalf of the port by its president and secretary, shall be in denominations of \$1,000 or multiples thereof, and shall mature in installments beginning not more than five and ending not more than 30 years from issue date]* **be issued as prescribed in ORS chapter 287.**

**SECTION 224.** ORS 777.447 is amended to read:

777.447. In addition to other powers granted a port, a port may, at any time, upon proper resolution adopted by the board, issue promissory notes to assist it in carrying out the powers granted the port under this chapter. The promissory notes shall not exceed a term of five years *[and]*, shall **be considered bonds for purposes of ORS chapter 287 and shall be issued as prescribed in ORS chapter 287.** *[bear interest not to exceed the rate established for bonds under ORS 288.515 to 288.600.]* A port *[shall]* **may** not have more than \$1 million in promissory notes outstanding at any one time. *No tax-derived revenues shall be pledged or used* **and may not pledge or use tax-derived revenues** to retire the notes. The notes shall be signed by the president and the treasurer of the port and shall state what assets and revenues of the port shall be security for the notes and that the notes do not constitute a full faith and credit pledge of the port. No officer or employee of the port shall hold promissory notes under this section. Expenditure of note proceeds and payment on notes issued under this section shall first be properly budgeted in accordance with the Local Budget Law.

**SECTION 225.** ORS 777.560 is amended to read:

777.560. (1) For the purpose of carrying into effect any of the powers granted to ports, a port may issue and sell revenue bonds in accordance with ORS 777.560 to 777.590 without the necessity of obtaining the prior approval of the electors of the port. Proceeds from the sale of revenue bonds may be used by the port in its governmental capacity or loaned to private parties. The proceeds may be used to cover the costs incurred in issuing the bonds, and preliminary work incident to carrying out such purposes and powers, including but not limited to planning, engineering, inspection, accounting, fiscal, legal and trustee expenses, the cost of issuance of bonds, engraving, printing, advertising and other similar expenses, and to pay interest on the outstanding bonds issued for any project during the period of actual construction and for six months after the completion thereof. Revenue bonds shall not be a general obligation of the port nor a charge upon the tax revenues of the port, nor a charge upon any other revenues or property of the port not specifically pledged thereto.

**(2) In addition to the powers granted by subsection (1) of this section, a port may authorize and issue revenue bonds under section 46 of this 2007 Act.**

**SECTION 226.** ORS 777.565 is amended to read:

777.565. (1) Revenue bonds **issued under ORS 777.560 (1)** shall be authorized by resolution or ordinance of the board. The resolution or ordinance shall provide for the creation of a special trust fund, authorize the appointment of a trustee to administer the fund, and obligate the port to set aside and pay into the special trust fund all, or a portion, of its nontax-derived revenues not otherwise pledged or committed for other purposes for any activity authorized by ORS 777.105 to 777.258, other than an activity under ORS 777.250 (4)(a) or (c). For a facility or facilities designated under ORS 777.250 (4)(a) or (c), no revenues other than those derived from the particular facility or facilities to be financed by the sale of the particular issue of revenue bonds then being authorized shall be pledged. The board may, in addition, pledge for the payment of the principal and interest of any issue of such bonds any property of the port not pledged for other purposes. However, with respect to revenue bonds issued to finance a facility or facilities designated under ORS 777.250 (4)(a) or (c), the board, in addition, may only pledge or mortgage such facilities including buildings, improvements or properties, and any land acquired in connection with such facilities, for the benefit of the holders of revenue bonds issued therefor. Notice that action upon the bond resolution or ordinance will be taken at the designated meeting of the board shall be given for a period of not less than two consecutive weeks, prior to the meeting, by publication once each week in a newspaper of general circulation, published within the port or, if there be no such newspaper, in a newspaper of general circulation, published within the county.

(2) A special trust fund created by a resolution or ordinance adopted under subsection (1) of this section shall be used solely for payment of principal and interest due upon the revenue bonds issued and sold pursuant to *[the resolution or ordinance]* **ORS 777.560 (1)**, and to the payment of the costs and expenses enumerated in ORS 777.560.

(3) The resolution or ordinance may provide that if the money in the special trust fund is insufficient to pay the revenue bonds the bonds shall be payable out of any part or all of other nontax-derived revenues of the port. However, for a facility or facilities designated under ORS 777.250 (4)(a) or (c), no revenues other than those derived from the particular facility or facilities to be financed by the sale of the particular issue of revenue bonds then being authorized shall be pledged. When all bonds **issued and sold pursuant to ORS 777.560 (1)** and expenses thereof have been paid so that no charge remains upon the special fund, the board may, by resolution or ordinance, transfer any balance remaining in the fund to its general fund, discharge the trustee and dissolve the special fund. The trustee authorized to administer the fund may, subject to approval of the board, invest and reinvest moneys in the special fund in securities in which the State of Oregon may by law invest.

(4) ORS 777.560 to 777.590 and the provisions of the resolution or ordinance authorizing a revenue bond issue constitute a contract with the holders of the bonds, and shall be enforceable by any owner or holder of the bonds.

**SECTION 227.** ORS 777.570 is amended to read:

777.570. Revenue bonds issued under ORS 777.560 (1) *[to 777.590]*:

(1) Shall be negotiable instruments.

*[(2) Shall bear such dates, mature at such times, be payable at a designated place or at the fiscal agency of the State of Oregon, as determined by the board, and bear such rate or rates of interest either fixed or variable under a formula fixed at the time of issuance as the board may authorize.]*

**(2) Shall be issued under ORS chapter 287, but the requirements of section 46 of this 2007 Act do not apply.**

(3) Shall contain a recital that principal and interest on the revenue bonds are payable solely out of revenues and property of the port pledged to the payment thereof by the ordinance of the board authorizing the issue of which the bonds are a part.

*[(4) May be in registered or coupon form or may be in registered form with the privilege of converting to coupon form.]*

[(5)] (4) May contain covenants of the port to protect and safeguard the security and rights of holders of such bonds and such other terms and conditions, in conformity with ORS 777.560 to 777.590, which the board determines are necessary or desirable to protect the port or increase the marketability of the bonds.

[(6) *Shall be in the form prescribed by the board and executed with either the autograph or facsimile signature of the president and countersigned by the secretary of the port. However, coupons, if any, attached to the bonds need bear only the printed or lithographed facsimile signature of the president and the secretary.*]

[(7) *May be issued with the right reserved to the board to redeem the bonds at par or at par plus a premium, in numerical order or in inverse numerical order, upon a designated interest-paying date or dates prior to the final maturity date or dates of the bonds. Notice of redemption shall be given in the manner specified in the bonds, as provided in ORS 288.520. Newspaper publication of notice of redemption is not required for bonds that are in registered form.*]

**SECTION 228.** ORS 777.943 is amended to read:

777.943. Bonds authorized by ORS 777.940 **shall be issued as prescribed in ORS chapter 287.**[:]

[(1) *May be issued from time to time in one or more series, bear such date or dates, mature at such times and in such amounts, be in such denomination or denominations, be payable within or without the State of Oregon, bear such rate or rates of interest and have such other terms, conditions and covenants as the board may by ordinance determine.*]

[(2) *May be in coupon form with or without privilege of registration or may be in registered form, or both, with the privilege of converting or reconverting to one form or another.*]

[(3) *Shall be signed by the president and by the secretary or an assistant secretary of the port, either manually or by their printed, engraved or lithographed signature; provided, however, that at least one signature is manual. The seal of the port or a facsimile thereof shall be printed, engraved or lithographed on the bonds. Coupons, if any, attached to the bonds need bear only the printed, engraved or lithographed facsimile signature of the president and the secretary or an assistant secretary of the port.*]

[(4) *May be issued with the right reserved to the board to redeem the bonds at par or at par plus a premium, in such order, and at such time or times prior to the final maturity date or dates of the bonds, as the board by ordinance may provide. Notice of redemption shall be given in the manner specified in the bonds, as provided in ORS 288.520. Newspaper publication of notice of redemption is not required for bonds that are in registered form.*]

**SECTION 229.** ORS 778.036 is amended to read:

778.036. Bonds authorized by ORS 778.030 **shall be issued as prescribed in ORS chapter 287.**[:]

[(1) *May be issued from time to time in one or more series, bear such date or dates, mature at such times and in such amounts, be in such denomination or denominations, be payable within or without the State of Oregon, bear such rate or rates of interest and have such other terms, conditions and covenants as the board may by ordinance determine.*]

[(2) *May be in coupon form with or without privilege of registration or may be in registered form, or both, with the privilege of converting or reconverting to one form or another.*]

[(3) *Shall be signed by the president and by the secretary or an assistant secretary of the Port of Portland, either manually or by their printed, engraved, or lithographed signature; provided, however, that at least one signature is manual. The seal of the port or a facsimile thereof shall be printed, engraved, or lithographed on the bonds. Coupons, if any, attached to the bonds need bear only the printed, engraved or lithographed facsimile signature of the president and the secretary or an assistant secretary of the port.*]

[(4) *May be issued with the right reserved to the board to redeem the bonds at par or at par plus a premium, in such order, and at such time or times prior to the final maturity date or dates of the bonds, as the board by ordinance may provide. Notice of redemption shall be given in the manner*

*specified in the bonds, as provided in ORS 288.520. Newspaper publication of notice of redemption is not required for bonds that are in registered form.]*

**SECTION 230.** ORS 778.145 is amended to read:

778.145. (1) For the purpose of carrying into effect all or any of the powers granted to ports, the Port of Portland may from time to time issue and sell revenue bonds without the necessity of the electors of the port authorizing the same. Proceeds from the sale of such bonds may be used also to cover the costs incurred in issuing such bonds, and preliminary work incident to carrying out such purposes and powers, including but not limited to planning, engineering, inspection, accounting, fiscal, legal and trustee expenses, the cost of issuance of bonds, engraving, printing, advertising and other similar expenses, and to pay interest on the outstanding bonds issued for any project during the period of actual construction and for such period thereafter as the port may determine, and to establish, maintain or increase any reserves for debt service on the bonds and for working capital. Such revenue bonds shall not in any manner or to any extent be a general obligation of the port nor a charge upon any other revenues or property of the port not specifically pledged thereto.

**(2) In addition to the power granted by subsection (1) of this section, a port may authorize and issue revenue bonds under section 46 of this 2007 Act.**

**SECTION 230a.** ORS 778.150 is amended to read:

778.150. (1) Revenue bonds issued under ORS 778.145 (1) [to 778.175] shall be authorized at a meeting by ordinance of the board. The ordinance may provide for the creation of special trust funds and may authorize the appointment of a trustee to administer the same, and may obligate the Port of Portland to set aside and pay into a special trust fund for the purpose of securing revenue bonds, all or any portion of its revenues, regardless of the source from which derived, then existing or which thereafter come into existence, not otherwise pledged or committed for other purposes. The board may, in addition thereto, pledge or mortgage for the payment of the principal of and interest on and premium, if any, of any issue of such bonds any property of the port not pledged for other purposes. Notice that action upon the bond ordinance will be taken at the designated meeting of the board, shall be given for a period of not less than two consecutive weeks, prior to such meeting, by publication thereof once each week in a newspaper of general circulation, published within the corporate boundaries of the port or, if there be no such newspaper, by posting such notice for a period of not less than two weeks in three public places in the port.

(2) The money in any special trust fund created by an ordinance authorizing an issue of revenue bonds shall be used solely for the purposes provided therefor by the ordinance.

(3) The ordinance may obligate the port, and the port shall have power to fix, levy and collect such rates, rentals, fees and other charges for the use and services of all or any of its facilities, which revenues may be pledged to the payment of the principal of and interest on and premium, if any, of the revenue bonds or any of them and if so pledged shall be sufficient to produce revenues, along with other lawfully available funds, adequate to pay the costs of the operation, maintenance and repair of any or all port properties; to pay or provide for the payment of the principal of and interest on, and premium, if any, of such revenue bonds or any of them, including any reserves for such payment; and to produce such additional amount of revenues therefrom as the port may covenant with the holders of such revenue bonds.

(4) The ordinance may provide that in the event the money in a special trust fund is insufficient to pay the revenue bonds to be paid out of the fund, such revenue bonds shall be payable out of any part or all of other nonpledged revenues of the port. Whenever all bonds and expenses thereof have been paid so that no charge remains upon such special fund, the board may, by ordinance, transfer any balance remaining in such fund to its general fund, discharge the trustee, if any, and dissolve the special fund. Any trustee authorized to administer the fund, may, subject to approval of the board, invest and reinvest moneys in the special fund in any security or securities in which the State of Oregon may by law invest.

(5) If the board fails to set aside and pay revenues into a special trust fund as required by the ordinance authorizing the issuance and sale of the bonds secured by the fund, a holder of any of

such bonds may bring suit against the port to compel compliance with the provisions of the ordinance in the circuit court of the county in which the port has its principal office.

**SECTION 231.** ORS 778.155 is amended to read:

778.155. The revenue bonds issued and sold under ORS 778.145 (1) [to 778.175]:

(1) Shall be deemed to be for all purposes negotiable instruments, subject only to the provisions of the bonds for registration, and need not comply with requirements of the Uniform Commercial Code.

(2) May be issued in one or more series, bear such date or dates, mature at such times and in such amounts, be in such denomination or denominations, be payable at a designated place or places within or without the State of Oregon or at the fiscal agency of the State of Oregon, be equally and ratably secured without priority or be entitled or subject to such priorities on all or any portion of the revenues of the Port of Portland, and, notwithstanding any other provision of law to the contrary, bear such rate or rates of interest either fixed or variable under a formula fixed at the time of issuance, and contain such other terms, conditions and covenants as the board may authorize.

(3) Shall contain a recital that principal of and interest on and premium, if any, on the revenue bonds are payable solely out of revenues and property of the port pledged to the payment thereof by the ordinance of the board authorizing the issue of which the bonds are a part.

*[(4) May be in coupon form with or without privilege of registration or may be in registered form, or both, with the privilege of converting and reconverting from one form to another.]*

*[(5)]* (4) May contain covenants of the port to protect and safeguard the security and rights of holders of any such bonds and such other terms and conditions, in conformity with ORS 778.145 to 778.175, which the board in its discretion determines are necessary or desirable to protect the port or increase the marketability of the bonds. ORS 778.145 to 778.175 and any such ordinance which constitutes a contract with the holders of the bonds, and the provisions thereof shall be enforceable by any holder or any number of holders of the bonds, as the board may determine.

*[(6) Shall be in the form prescribed by the board and shall be signed by the president and by the secretary or an assistant secretary of the port, either manually or by their printed, engraved or lithographed signature; provided, however, that at least one signature is manual, with the seal of the port or a facsimile thereof printed, engraved or lithographed thereon or affixed thereto. Coupons, if any, attached to the bonds need bear only the printed, engraved or lithographed facsimile signature of the president and the secretary or an assistant secretary. Pending the preparation and delivery of definitive bonds, the port may issue interim certificates or temporary bonds, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. Such interim certificates or temporary bonds may contain such terms and conditions as the board may determine.]*

*[(7) May be issued with the right reserved to the board to redeem the bonds at par or at par plus a premium, in such order, and at such time or times prior to the final maturity date or dates of the bonds, as the ordinance may provide or as otherwise determined by the board. Notice of redemption shall be given in the manner specified in the bonds, as provided in ORS 288.520. Newspaper publication of notice of redemption is not required for bonds that are in registered form.]*

**(5) Shall be issued under ORS chapter 287. However, the requirements of section 46 of this 2007 Act do not apply to revenue bonds issued under this section.**

**SECTION 232.** ORS 838.065 is amended to read:

838.065. (1) For the purpose of performing any service that the district has power to perform, the district, when authorized at any properly called election held for such purpose, shall have the power to borrow money by the issuance and sale of general obligation bonds. Such bonds shall never exceed in the aggregate 10 percent of the real market value of all taxable property within the district computed in accordance with ORS 308.207. The bonds shall be so conditioned that the district shall promise and agree therein to pay the bearer at a place named therein payable semiannually in accordance with the tenor and terms of the interest coupons attached. The bonds shall mature serially not to exceed 30 years from the date of issue[, *in like manner as bonds issued under the authority of ORS 287.008*].

(2) For the purpose of performing any of the powers conferred by this chapter a district, without the necessity of an election held for such purpose, shall have the power to borrow money by the issuance and sale also of revenue bonds and to pledge as security therefor, all or any part of the unobligated net income or revenue of the district. The revenue bonds shall be *[issued in the same manner and form as are general obligation bonds of the district but they shall be]* payable both as to principal and interest from revenues only. The revenue bonds shall not be subject to the percentage limitation applicable to general obligation bonds and shall not be a lien on any of the taxable property within the limits of the district and shall be payable solely from such part of revenues of the district as remains after the payment of obligations having a priority and of all expenses of operation and maintenance of the district. All revenue bonds shall contain a provision that both the principal and interest are payable solely from the operating revenues of the district remaining after paying such obligations and expenses.

(3) All general obligation bonds and revenue bonds shall be *[advertised for sale and sold in the manner prescribed in ORS 287.014 to 287.022 for the sale of bonds of cities]* **issued as prescribed in ORS chapter 287.**

**SECTION 232a.** ORS 468.423 is amended to read:

468.423. As used in ORS 468.423 to 468.440:

(1) "Fund" means the Water Pollution Control Revolving Fund established under ORS 468.427.

(2) "Public agency" means:

(a) *[any]* A state agency, incorporated city, county, sanitary authority, federally recognized Indian tribal government, county service district, sanitary district, metropolitan service district or other special district authorized or required to construct water pollution control facilities; **or**

**(b) An intergovernmental entity created by units of local government under ORS 190.003 to 190.130.**

(3) "Treatment works" means:

(a) The devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature, necessary to recycle or reuse water at the most economical cost over the estimated life of the works. "Treatment works" includes:

(A) Intercepting sewers, outfall sewers, sewage collection systems, pumping power and other equipment, and any appurtenance, extension, improvement, remodeling, addition or alteration to the equipment;

(B) Elements essential to provide a reliable recycled water supply including standby treatment units and clear well facilities; and

(C) Any other acquisitions that will be an integral part of the treatment process or used for ultimate disposal of residues resulting from such treatment, including but not limited to land used to store treated waste water in land treatment systems prior to land application.

(b) Any other method or system for preventing, abating, reducing, storing, treating, separating or disposing of municipal waste, storm water runoff, industrial waste or waste in combined storm water and sanitary sewer systems.

(c) Any other facility that the Environmental Quality Commission determines a public agency must construct or replace in order to abate or prevent surface or ground water pollution.

**SECTION 232b.** If Senate Bill 812 becomes law and Senate Bill 838 does not become law, ORS 261.355, as amended by section 12, chapter \_\_\_, Oregon Laws 2007 (Enrolled Senate Bill 812), is amended to read:

261.355. (1) For the purpose of carrying into effect the powers granted in this chapter, any district may issue and sell revenue bonds, when authorized by a majority of its electors voting at any primary election, general election or special election.

(2) All revenue bonds issued and sold under this chapter shall be so conditioned as to be paid solely from that portion of the revenues derived by the district from the sale of water, waterpower and electricity, or any of them, or any other service, commodity or facility which may be produced, used or furnished in connection therewith, remaining after paying from those revenues all expenses of operation and maintenance, including taxes.

(3) Notwithstanding subsection (1) of this section and subject to subsection (4) of this section, any district may, by a duly adopted resolution of its board, issue and sell revenue bonds for the purpose of financing betterments and extensions of the district, including renewable energy facilities or the purchase or sale of electricity, electrical capacity or renewable energy certificates, but the amount of revenue bonds so issued shall be limited to the reasonable value of the betterments and extensions plus an amount not to exceed 10 percent thereof for administrative purposes. Revenue bonds shall not be issued and sold for the purpose of acquiring an initial utility system or acquiring property or facilities owned by another entity that provides electric utility service unless:

(a) The acquisition is a voluntary transaction between the district and the other entity that provides electric utility service; or

(b) The electors within the district have approved issuance of the bonds by a vote.

(4) Not later than the 30th day prior to a board meeting at which adoption of a resolution under subsection (3) of this section will be considered, the district shall:

(a) Provide for and give public notice, reasonably calculated to give actual notice to interested persons including news media which have requested notice, of the time and place of the meeting and of the intent of the board to consider and possibly adopt the resolution; and

(b) Mail to its customers notice of the time and place of the meeting and of the intent of the board to consider and possibly adopt the resolution.

(5) Except as otherwise provided in this section, any authorizing resolution adopted for the purposes of subsection (3) of this section shall provide that electors residing within the district may file a petition with the district asking to have the question of whether to issue such bonds referred to a vote.

(6) If within 60 days after adoption of a resolution under subsection (3) of this section the district receives petitions containing valid signatures of not fewer than five percent of the electors of the district, the question of issuing the bonds shall be placed on the ballot at the next date on which a district election may be held under ORS 255.345 (1).

(7) When petitions containing the number of signatures required under subsection (6) of this section are filed with the district within 60 days after adoption of a resolution under subsection (3) of this section, revenue bonds shall not be sold until the resolution is approved by a majority of the electors of the district voting on the resolution.

(8) Any district issuing revenue bonds may pledge that part of the revenue which the district may derive from its operations as security for payment of principal and interest thereon remaining after payment from such revenues of all expenses of operation and maintenance, including taxes, and consistent with the other provisions of this chapter.

(9) Prior to any district board taking formal action to issue and sell any revenue bonds under this section, the board shall have on file with the secretary of the district a certificate executed by a qualified engineer that the net annual revenues of the district, including the property to be acquired or constructed with the proceeds of the bonds, shall be sufficient to pay the maximum amount that will be due in any one fiscal year for both principal of and interest on both the bonds then proposed to be issued and all bonds of the district then outstanding.

(10) Except as otherwise provided in this section, the district shall order an election for the authorization of revenue bonds to finance the acquisition or construction of an initial utility system, including the replacement value of the unreimbursed investment of an investor owned utility in energy efficiency measures and installations within the proposed district, as early as practicable under ORS 255.345 after filing the certificate required under subsection (9) of this section. An election for the authorization of revenue bonds to finance the acquisition or construction of an initial utility system shall be held no more than twice in any one calendar year for any district. In even-numbered years no election shall be held on any other date than the date of the primary election or general election.

(11) A district may issue revenue bonds under [ORS 288.805 to 288.945] **section 46 of this 2007 Act** without an election authorizing the issuance, except that revenue bonds shall not be issued under [ORS 288.805 to 288.945] **section 46 of this 2007 Act** for the purpose of acquiring an initial

utility system or acquiring property or facilities owned by another entity that provides electric utility service unless:

(a) The acquisition is a voluntary transaction between the district and the other entity that provides electric utility service; or

(b) The electors within the district have approved issuance of the bonds by a vote.

**SECTION 232c.** If both Senate Bill 812 and Senate Bill 838 become law, ORS 261.355, as amended by section 41, chapter 301, Oregon Laws 2007 (Enrolled Senate Bill 838), and section 12a, chapter \_\_\_, Oregon Laws 2007 (Enrolled Senate Bill 812), is amended to read:

261.355. (1) For the purpose of carrying into effect the powers granted in this chapter, any district may issue and sell revenue bonds, when authorized by a majority of its electors voting at any primary election, general election or special election.

(2) All revenue bonds issued and sold under this chapter shall be so conditioned as to be paid solely from that portion of the revenues derived by the district from the sale of water, waterpower and electricity, or any of them, or any other service, commodity or facility which may be produced, used or furnished in connection therewith, remaining after paying from those revenues all expenses of operation and maintenance, including taxes.

(3) Notwithstanding subsection (1) of this section and subject to subsection (4) of this section, any district may, by a duly adopted resolution of its board, issue and sell revenue bonds for the purpose of financing betterments and extensions of the district, including renewable energy facilities or the purchase or sale of electricity, electrical capacity or renewable energy certificates, but the amount of revenue bonds so issued shall be limited to the reasonable value of the betterments and extensions plus an amount not to exceed 10 percent thereof for administrative purposes. Revenue bonds shall not be issued and sold for the purpose of acquiring an initial utility system or acquiring property or facilities owned by another entity that provides electric utility service unless:

(a) The acquisition is a voluntary transaction between the district and the other entity that provides electric utility service; or

(b) The electors within the district have approved issuance of the bonds by a vote.

(4) Not later than the 30th day prior to a board meeting at which adoption of a resolution under subsection (3) of this section will be considered, the district shall:

(a) Provide for and give public notice, reasonably calculated to give actual notice to interested persons including news media which have requested notice, of the time and place of the meeting and of the intent of the board to consider and possibly adopt the resolution; and

(b) Mail to its customers notice of the time and place of the meeting and of the intent of the board to consider and possibly adopt the resolution.

(5) Except as otherwise provided in this section, any authorizing resolution adopted for the purposes of subsection (3) of this section shall provide that electors residing within the district may file a petition with the district asking to have the question of whether to issue such bonds referred to a vote.

(6) If within 60 days after adoption of a resolution under subsection (3) of this section the district receives petitions containing valid signatures of not fewer than five percent of the electors of the district, the question of issuing the bonds shall be placed on the ballot at the next date on which a district election may be held under ORS 255.345 (1).

(7) When petitions containing the number of signatures required under subsection (6) of this section are filed with the district within 60 days after adoption of a resolution under subsection (3) of this section, revenue bonds shall not be sold until the resolution is approved by a majority of the electors of the district voting on the resolution.

(8) Any district issuing revenue bonds may pledge that part of the revenue which the district may derive from its operations as security for payment of principal and interest thereon remaining after payment from such revenues of all expenses of operation and maintenance, including taxes, and consistent with the other provisions of this chapter.

(9) Prior to any district board taking formal action to issue and sell any revenue bonds under this section, the board shall have on file with the secretary of the district a certificate executed by

a qualified engineer that the net annual revenues of the district, including the property to be acquired or constructed with the proceeds of the bonds, shall be sufficient to pay the maximum amount that will be due in any one fiscal year for both principal of and interest on both the bonds then proposed to be issued and all bonds of the district then outstanding.

(10) Except as otherwise provided in this section, the district shall order an election for the authorization of revenue bonds to finance the acquisition or construction of an initial utility system, including the replacement value of the unreimbursed investment of an investor owned utility in energy efficiency measures and installations within the proposed district, as early as practicable under ORS 255.345 after filing the certificate required under subsection (9) of this section. An election for the authorization of revenue bonds to finance the acquisition or construction of an initial utility system shall be held no more than twice in any one calendar year for any district. In even-numbered years no election shall be held on any other date than the date of the primary election or general election.

(11) A district may issue revenue bonds under [ORS 288.805 to 288.945] **section 46 of this 2007 Act** without an election authorizing the issuance, except that revenue bonds shall not be issued under [ORS 288.805 to 288.945] **section 46 of this 2007 Act** for the purpose of acquiring an initial utility system or acquiring property or facilities owned by another entity that provides electric utility service unless:

(a) The acquisition is a voluntary transaction between the district and the other entity that provides electric utility service; or

(b) The electors within the district have approved issuance of the bonds by a vote.

**SECTION 232d.** If Senate Bill 812 becomes law, ORS 383.027, as amended by section 178 of this 2007 Act, is amended to read:

383.027. (1) A public body, as defined in section 42 of this 2007 Act, [*but not including a people's utility district organized under ORS chapter 261,*] may issue revenue bonds for the purpose of financing a tollway project.

(2) A nonprofit corporation organized under Oregon law may issue revenue bonds for the purpose of financing a tollway project.

(3) Revenue bonds authorized by this section shall be issued as prescribed in ORS chapter 287.

**SECTION 232e.** If House Bill 2096 becomes law, **section 198 of this 2007 Act (amending ORS 456.615) is repealed and ORS 456.615, as amended by section 17, chapter \_\_, Oregon Laws 2007 (Enrolled House Bill 2096), is amended to read:**

456.615. As used in ORS 456.550 to 456.725, unless the context requires otherwise:

(1) "Bonds" means any bonds, [*notes or*] **as defined in section 2 of this 2007 Act, or any** other evidence of indebtedness, [*including notes or other evidence of indebtedness issued in anticipation of the issuance of bonds and payable from the proceeds of bonds issued,*] issued under ORS 456.515 to 456.725 **or issued in anticipation of bonds and payable from the proceeds of bonds issued.**

(2) "Capital reserve account" or "capital reserve accounts" means one or more of the special trust accounts that may be established by the Housing and Community Services Department within the Housing Finance Fund.

(3) "Consumer housing cooperative" means a cooperative corporation formed under ORS chapter 62 and whose articles of incorporation provide, in addition to the other requirements of ORS chapter 62, that:

(a) The consumer housing cooperative has been organized exclusively to provide housing facilities for persons and families of lower income and such social, recreational, commercial and communal facilities as may be incidental to such housing facilities.

(b) All income and earnings of the consumer housing cooperative shall be used exclusively for consumer housing cooperative purposes and that no unreasonable part of the net income or net earnings of the cooperative shall inure to the benefit or profit of any private individual, firm, corporation, partnership or association.

(c) The consumer housing cooperative is in no manner controlled or under the direction of or acting in the substantial interest of any private individual, firm, corporation, partnership or associ-

ation seeking to derive profit or gain therefrom or seeking to eliminate or minimize losses in any transaction therewith, except that such limitation shall apply to the members of the cooperative only to the extent provided by rules of the department.

(d) The operations of the consumer housing cooperative may be supervised by the department and that the consumer housing cooperative shall enter into such agreements with the department as the department may require to provide regulation by the department of the planning, development and management of any housing project undertaken by the cooperative and the disposition of the property and other interests of the cooperative.

(4) "Development costs" means the costs that have been approved by the department as appropriate expenditures and includes, but is not limited to:

(a) Payments for options to purchase property for the proposed housing project site, deposits on contracts of purchase, payments for the purchase of property as approved by the department, legal, organizational and marketing expenses including payment of attorney fees, managerial and clerical staff salaries, office rent and other incidental expenses, payment of fees for preliminary feasibility studies, advances for planning, engineering and architectural work;

(b) Expenses for surveys as to need and market analyses; and

(c) Such other expenses incurred by the qualified housing sponsor as the department may deem necessary under ORS 456.550 to 456.725.

(5) "Federally insured security" means an evidence of indebtedness insured or guaranteed as to repayment of principal and interest by the United States or an agency or instrumentality thereof.

(6) "Housing development" means a development that contains housing units for persons or families of lower income and such other incidental elements of residential, commercial, recreational, industrial, communal or educational facilities as the department determines improve the quality of the development as it relates to housing for persons or families of lower income and the financial feasibility of the development.

(7) "Housing finance bond declaration" means a written instrument signed by the Director of the Housing and Community Services Department and on file with and bearing the certificate of approval of the State Treasurer **or the designee of the State Treasurer**, and all housing finance bond declarations supplemental to that instrument.

(8) "Housing Finance Fund" means the Housing Finance Fund established in ORS 456.720 (1).

(9) "Lending institution" means any bank, mortgage banking company, trust company, savings bank, savings and loan association, credit union, national banking association, federal savings and loan association or federal credit unit maintaining an office in this state, or any insurance company authorized to do business in this state.

(10) "Limited dividend housing sponsor" means a corporation, trust, partnership, association or other entity, or an individual that is a mortgagor.

(11) "Manufactured dwelling park nonprofit cooperative" has the meaning given that term in section 3 [of this 2007 Act], **chapter \_\_, Oregon Laws 2007 (Enrolled House Bill 2096)**.

(12) "Manufactured housing" means a dwelling unit manufactured off-site having a minimum width of 10 feet and a minimum area of 400 square feet built on a permanent chassis and designed to be used for permanent residential occupancy whether or not on a permanent foundation, and that contains permanent eating, cooking, sleeping and sanitary facilities and meets such standards as the department determines, by rule, are reasonable to maintain the quality, safety and durability of the dwelling, the sanitary requirements of the communities in which they are located and the security of the loans that the department may finance for the purchase of the dwellings.

(13) "Nonprofit housing corporation" means an organization formed under ORS chapter 65 and whose articles of incorporation provide, in addition to the other requirements of ORS chapter 65, that:

(a) The corporation has been organized exclusively to provide housing facilities for persons and families of lower income and such other social, recreational, commercial and communal facilities as may be incidental to such housing facilities.

(b) All the income and earnings of the corporation shall be used exclusively for corporation purposes and that no part of the net income or net earnings of the corporation may inure to the benefit of any private individual, firm, corporation, partnership or association.

(c) The corporation is in no manner controlled or under the direction or acting in the substantial interest of any private individual, firm, partnership or association seeking to derive profit or gain therefrom or seeking to eliminate or minimize losses in transactions therewith.

(d) The operations of the corporation may be supervised by the department and that the corporation shall enter into such agreements with the department as the department may require to regulate the planning, development and management of any housing project undertaken by the corporation and the disposition of the property and other interests of the corporation.

(14) "Person of lower income" or "family of lower income" means:

(a) A person or family residing in this state whose income is not more than 80 percent of area median income, adjusted for family size, as determined by the State Housing Council based upon information from the United States Department of Housing and Urban Development;

(b) A person or family residing in this state whose income, adjusted for family size, is below the level the Housing and Community Services Department has determined to be necessary in order to obtain in the open market decent, safe and sanitary housing, including the cost of utilities and taxes, for not more than 25 percent of the gross income of the person or family; or

(c) Any person or family the department determines is appropriate to treat as a person of lower income or a family of lower income incidental to the accomplishment of department programs for persons and families of lower income described in paragraphs (a) and (b) of this subsection.

(15) "Project cost" or "costs of the project" means the sum of all reasonable expenses incurred by a qualified housing sponsor in undertaking and completing a housing project approved by the department. "Project costs" or "costs of the project" include but are not limited to the expenses incurred by a qualified housing sponsor for:

(a) Studies and surveys;

(b) Plans, specifications, architectural and engineering services;

(c) Legal, organizational and other special services;

(d) Financing, acquisition, demolition, construction, equipment and site development of new and rehabilitated housing units;

(e) Movement of existing buildings to new sites; the cost of acquisition, or estimated fair market value, of land and other interests in real estate;

(f) Rehabilitation, reconstruction, repair or remodeling of existing buildings;

(g) Estimated carrying charges during construction and for a reasonable period thereafter;

(h) Placement of tenants or occupants and relocation services in connection with the housing project;

(i) Reasonable builder's or sponsor's profit and risk allowance; and

(j) Development costs not otherwise included in this subsection.

(16) "Qualified housing sponsor" includes, subject to the approval of the department:

(a) A consumer housing cooperative;

(b) A limited dividend housing sponsor;

(c) A nonprofit housing corporation;

(d) A for-profit housing sponsor including, but not limited to, an individual operating in compliance with the criteria adopted by the department under ORS 456.620 (1);

(e) A housing authority created by ORS 456.075;

(f) An urban renewal agency created by ORS 457.035; and

(g) Any city or county governing body or agency or department designated by the governing body.

(17) "Residential housing" means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including land development and acquisition, construction or rehabilitation of buildings and improvements thereto, for residential housing, and such other nonhousing facilities as may be incidental or appurtenant thereto and as the department de-

termines improve the quality of the development as it relates to housing for persons or families of lower income and the financial feasibility of the development. "Residential housing" includes, but is not limited to, a specific work or improvement within this state undertaken to provide mobile home or manufactured dwelling parks as defined in ORS 446.003. As used in this subsection, "land development" includes, but is not limited to, the improvement of streets and alleys and the construction of surface drains, sewers, curbing and sidewalks.

(18) "Residential loan" means any of the following:

(a) A loan that is for the acquisition, construction, improvement or rehabilitation of residential housing and, if the loan is for acquisition or construction of residential housing, that is secured by a first lien on real property located in the state and:

(A) Improved by a newly constructed, existing or rehabilitated residential structure for persons or families of lower income; or

(B) Unimproved if the proceeds of such loan shall be used for the erection of a residential structure thereon, whether or not such loan is insured or guaranteed by the United States or any instrumentality or agency thereof.

(b) An insured or guaranteed loan for the acquisition of manufactured housing or for the acquisition of a lot described in ORS 92.840 by a manufactured dwelling park tenant.

(c) A loan for the purchase of a proprietary lease and related cooperative shares in a housing cooperative formed under ORS chapter 62 secured by a security interest of first priority and a pledge or an assignment of proprietary leases and related cooperative shares.

(19) "Revolving account" means the Housing and Community Services Department Revolving Account created in ORS 456.574.

#### APPLICABILITY DATE

**SECTION 233. Unless an election is made under section 236 of this 2007 Act:**

(1) Sections 2 to 11, 15 to 26, 31 and 33 of this 2007 Act and the amendments to ORS 286.555, 286.605, 286.615, 286.645, 286.560, 286.563, 286.566, 286.580, 286.585, 286.750, 286.762, 286.782, 286.768, 293.175, 293.177 and 328.346 by sections 13, 14, 27 to 29, 32, 35 to 40 and 110 to 112 of this 2007 Act apply to bonds approved for issuance by the State Treasurer on or after the effective date of this 2007 Act.

(2) Sections 42 to 59 and 64 to 70 of this 2007 Act and the amendments to ORS 287.030, 287.032, 287.034 and 287.040 by sections 60 to 63 of this 2007 Act apply to bonds approved for issuance by the governing body of a public body on or after the effective date of this 2007 Act.

(3) The amendments to statutes by sections 71 to 232e of this 2007 Act apply to bonds approved for issuance by the State Treasurer or the governing body of a public body, as appropriate, on or after the effective date of this 2007 Act.

#### REPEALS

**SECTION 234.** (1) ORS 223.905, 223.910, 223.915, 223.920, 223.925, 285B.347, 286.010, 286.020, 286.031, 286.033, 286.036, 286.038, 286.041, 286.051, 286.056, 286.058, 286.061, 286.066, 286.071, 286.078, 286.105, 286.115, 286.125, 286.135, 286.145, 286.505, 286.507, 286.515, 286.525, 286.535, 286.545, 286.635, 286.700, 286.705, 286.710, 286.715, 286.720, 286.770, 286.790, 287.001, 287.003, 287.004, 287.006, 287.007, 287.008, 287.012, 287.014, 287.016, 287.018, 287.020, 287.022, 287.025, 287.028, 287.029, 287.033, 287.036, 287.038, 287.042, 287.045, 287.049, 287.052, 287.053, 287.054, 287.055, 287.056, 287.058, 287.062, 287.064, 287.066, 287.069, 287.070, 287.072, 287.074, 287.075, 287.140, 287.142, 287.144, 287.146, 287.202, 287.204, 287.206, 287.208, 287.210, 287.212, 287.214, 287.216, 287.218, 287.220, 287.252, 287.254, 287.256, 287.258, 287.260, 287.262, 287.264, 288.010, 288.020, 288.030, 288.040, 288.050, 288.060, 288.070, 288.090, 288.100, 288.110, 288.120, 288.150, 288.155, 288.160, 288.162, 288.165, 288.410, 288.420, 288.430, 288.435, 288.440, 288.450, 288.460,

288.500, 288.505, 288.513, 288.515, 288.517, 288.518, 288.520, 288.523, 288.525, 288.530, 288.535, 288.540, 288.545, 288.550, 288.560, 288.570, 288.580, 288.590, 288.592, 288.594, 288.596, 288.598, 288.600, 288.605, 288.610, 288.615, 288.620, 288.625, 288.630, 288.635, 288.637, 288.640, 288.645, 288.650, 288.655, 288.660, 288.665, 288.670, 288.675, 288.677, 288.680, 288.685, 288.690, 288.695, 288.805, 288.815, 288.825, 288.835, 288.845, 288.855, 288.865, 288.875, 288.885, 288.895, 288.915, 288.925, 288.935, 288.945, 288.950, 293.173, 293.292, 328.235, 358.395, 358.400, 367.670, 450.935 and 456.650 are repealed.

(2) Notwithstanding section 17, chapter \_\_, Oregon Laws 2007 (Enrolled Senate Bill 812) (amending ORS 288.805), if Senate Bill 812 becomes law, ORS 288.805 is repealed.

**SECTION 235.** Nothing in the repeal of statutes by section 234 of this 2007 Act affects any issue of bonds that occurred prior to the effective date of this 2007 Act.

**ELECTION TO APPLY PRIOR LAW**

**SECTION 236.** (1) Notwithstanding section 233 of this 2007 Act and the repeal of statutes by section 234 of this 2007 Act, or any other provision of law, the State Treasurer or any public body as defined in section 42 of this 2007 Act may elect, pursuant to rules adopted by the State Treasurer, to authorize or issue bonds under the laws of this state in effect on the day before the effective date of this 2007 Act.

(2) The State Treasurer shall by rule prescribe how and when an election may be made under this section.

**SECTION 237.** Section 236 of this 2007 Act is repealed January 2, 2010.

**CAPTIONS**

**SECTION 238.** The unit captions used in this 2007 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2007 Act.

Passed by House June 4, 2007

Received by Governor:

Repassed by House June 20, 2007

.....M.,....., 2007

Approved:

.....  
Chief Clerk of House

.....M.,....., 2007

.....  
Speaker of House

.....  
Governor

Passed by Senate June 19, 2007

Filed in Office of Secretary of State:

.....  
President of Senate

.....M.,....., 2007

.....  
Secretary of State