

HOUSE AMENDMENTS TO A-ENGROSSED HOUSE BILL 4018

By JOINT COMMITTEE ON WAYS AND MEANS

March 5

1 On page 1 of the printed A-engrossed bill, line 3, after the semicolon insert “appropriating
2 money;”.

3 Delete lines 5 through 20.

4 On page 2, delete lines 1 through 28 and insert:

5 “**SECTION 1.** Section 168a, chapter 768, Oregon Laws 2013, is amended to read:

6 “**Sec. 168a.** (1) If the president of Oregon State University notifies the Governor between Au-
7 gust 2, 2013, and January 1, 2014, that the university will become a university with a governing
8 board:

9 “(a) Within two weeks after receiving the notification, the Governor shall inform the President
10 of the Senate, the Speaker of the House of Representatives and the Legislative Counsel of the no-
11 tification; and

12 “(b) Not later than February 1, 2014, the Governor shall appoint all of the members of the gov-
13 erning board in the manner set forth in [*section 6 of this 2013 Act*] **ORS 352.076.**

14 “(2)(a) If the president of Eastern Oregon University, Oregon Institute of Technology, Southern
15 Oregon University or Western Oregon University determines that the university should become a
16 university with a governing board, the president shall notify the Governor and the State Board of
17 Higher Education of the university’s intent. Notification under this subsection must occur during the
18 period beginning March 1, 2014, and ending [*June 1, 2015*] **May 15, 2014.**

19 “(b) Within 45 days of receiving notification under this subsection from a university president,
20 the State Board of Higher Education shall [*decide whether or not to*] **take one of the following**
21 **actions:**

22 “(A) Endorse the university’s decision. If the **State Board of Higher Education** endorses the
23 [*request*] **university’s decision**, the board shall immediately communicate any endorsement to the
24 Governor.

25 “(B) **Not endorse the university’s decision.**

26 “(C) **Endorse the university’s decision subject to conditions recommended by the State**
27 **Board of Higher Education and endorsed by the Governor.**

28 “(3) **If the university’s decision is endorsed by the State Board of Higher Education and**
29 **the Governor under subsection (2)(b)(C) of this section, the following apply:**

30 “(a) **The State Board of Higher Education and the president of the university seeking a**
31 **governing board must mutually agree on the conditions that will be recommended by the**
32 **board to the Governor. In order for a university to be endorsed under subsection (2)(b)(C)**
33 **of this section, the Governor must receive and choose to endorse the recommended condi-**
34 **tions not later than the date set forth in subsection (2)(b) of this section.**

35 “(b) **The conditions recommended for a university seeking a governing board may include,**

1 but are not limited to, financial thresholds that must be met by the governing board or other
2 coordination conditions to ensure the university's financial stability and the stability of the
3 university's programs.

4 “(c) The university becomes a university with a governing board in the same manner and
5 under the same time frame, and functions in the same manner, as a university endorsed by
6 the State Board of Higher Education under subsection (2)(b)(A) of this section, subject to the
7 conditions recommended by the board and endorsed by the Governor.

8 “(4)(a) A university whose decision is endorsed with conditions under subsection (2)(b)(C)
9 of this section must fulfill the conditions not later than the date, if any, specified by the
10 State Board of Higher Education and university president and endorsed by the Governor. If
11 the Higher Education Coordinating Commission determines, as a result of a financial review
12 and performance audit of the university and its governing board, that the university has not
13 met the necessary conditions by the specified date, the commission shall notify the Gover-
14 nor.

15 “(b) Within 90 days of receiving a notification under paragraph (a) of this subsection, the
16 Governor may suspend the governing board and direct the university's administration to
17 report to the governing board of a different university, direct the university to adopt a dif-
18 ferent governance structure or decide that the university should retain its governing board.
19 Absent legislative action, the Governor's action is final and, unless the Governor decides to
20 retain the governing board of the university, the governing board is disbanded at the con-
21 clusion of the next regular session of the Legislative Assembly.

22 “[c] (5) Upon receiving notification that the State Board of Higher Education has endorsed a
23 university's decision to become a university with a governing board **under subsection (2)(b)(A) of**
24 **this section, or upon endorsing a university's decision to become a university with a gov-**
25 **erning board under subsection (2)(b)(C) of this section,** the Governor shall:

26 “[A] (a) Inform the President of the Senate, the Speaker of the House of Representatives and
27 the Legislative Counsel that the university will become a university with a governing board; and

28 “[B] (b) Not later than six months after receiving the notification, appoint all of the members
29 of the governing board in the manner set forth in [section 6 of this 2013 Act] **ORS 352.076.**

30 “[3] (6) Notwithstanding section 169, **chapter 768, Oregon Laws 2013** [of this 2013 Act], if
31 Eastern Oregon University, Oregon Institute of Technology, Southern Oregon University or Western
32 Oregon University becomes a university with a governing board under subsection (2) of this section,
33 the president of that university shall take over administrative responsibilities for the university from
34 the State Board of Higher Education on [either] July 1, 2015[, or when the Governor appoints the
35 members of the governing board, whichever date comes later].”.

36 On page 6, after line 24, insert:

37 “**SECTION 7. (1) The Public University Fund is established in the State Treasury, sepa-**
38 **rate and distinct from the General Fund. Any interest or other investment income derived**
39 **from moneys in the Public University Fund is credited to the fund.**

40 “(2) Except for moneys otherwise designated by statute or federal law, the governing
41 board of any public university listed in ORS 352.002 may place any or all moneys received by
42 it into the Public University Fund. Once deposited in the fund, the moneys of a public uni-
43 versity shall be commingled with other moneys in the fund and are fungible, except to the
44 extent they may be separately accounted for by the public university designated under sub-
45 section (3)(a) of this section.

1 “(3)(a) Public universities listed in ORS 352.002 that choose to participate in the Public
2 University Fund shall, by agreement or other structure authorized by law, designate the
3 participating public university responsible for the Public University Fund and identify any
4 and all obligations necessary for a participating public university listed in ORS 352.002 to
5 serve as the designated responsible party under this subsection.

6 “(b) The participating public universities shall inform the State Treasurer of the desig-
7 nated public university responsible for the Public University Fund. The participating public
8 universities may change which participating public university is responsible for the Public
9 University Fund.

10 “(c) The State Treasurer may conclusively rely on a written instruction from the public
11 universities as to the designated public university responsible for the fund.

12 “(d) The designated public university shall inform the State Treasurer of the personnel
13 authorized to provide instructions to the State Treasurer with respect to moneys in the fund.
14 The State Treasurer may rely on instructions from the authorized personnel of the desig-
15 nated public university related to the deposit, withdrawal, investment, transfer, borrowing
16 or lending of moneys in the fund. The State Treasurer is not responsible for or liable to the
17 public universities for any error or omission in the instructions the State Treasurer receives
18 from the designated public university.

19 “(4) All moneys in the Public University Fund are continuously appropriated to the public
20 university responsible for the Public University Fund, to be used only in a manner consistent
21 with the agreement or other structure authorized by law as described in subsection (3) of
22 this section.

23 “(5) The moneys in the Public University Fund may be invested as provided in ORS
24 293.701 to 293.857.

25 “(6) Public universities that participate in the Public University Fund may, by agreement
26 or other structure authorized by law, direct the public university designated under sub-
27 section (3)(a) of this section to establish accounts and subaccounts within the fund when the
28 participating public universities determine that accounts or subaccounts are necessary or
29 desirable. Except when otherwise specified by a statute establishing an account, the partic-
30 ipating public universities or, as appropriate, the designated public university, may credit any
31 interest or income derived from moneys in the fund to any account or subaccount within the
32 fund.

33 “(7) Public universities that participate in the Public University Fund or, as appropriate,
34 the public university designated under subsection (3)(a) of this section, shall keep a record
35 of all moneys deposited into the fund. The record shall indicate by separate cumulative ac-
36 counts and subaccounts the sources from which the moneys are derived and the individual
37 activity or program against which each withdrawal is charged.

38 “(8) Notwithstanding any other provision of law, public universities that participate in
39 the Public University Fund or, as appropriate, the public university designated under sub-
40 section (3)(a) of this section, may transfer or lend the moneys in the fund to other partic-
41 ipating public universities listed in ORS 352.002. The Public University Fund may be a
42 borrowing fund for purposes of ORS 293.205 to 293.225 and may borrow from the Oregon
43 Short Term Fund established in ORS 293.728 or other state funds. Subject to the limitations
44 of Article XI, section 7 of the Oregon Constitution, the Public University Fund may be a
45 lending fund for purposes of ORS 293.205 to 293.225 and may lend moneys to other state

1 funds. The public university designated under subsection (3)(a) of this section shall be the
2 relevant state agency or department for whom the State Treasurer may transfer funds or
3 with whom the State Treasurer may enter into an agreement pursuant to ORS 293.205 to
4 293.225.

5 “(9) Notwithstanding any other provision of law, ORS 293.169, 293.171, 293.353, 293.406,
6 293.450, 293.455, 293.460 and 293.465 to 293.485 apply to moneys in the Public University Fund
7 and to checks, warrants or electronic funds transfers from or to the fund. For purposes of
8 ORS 293.169, 293.171, 293.353, 293.406, 293.450, 293.455, 293.460 and 293.465 to 293.485:

9 “(a) The public university designated under subsection (3)(a) of this section is the rele-
10 vant state agency or department; and

11 “(b) The personnel of the designated public university authorized to provide instructions
12 to the State Treasurer are the relevant state officers.

13 “(10)(a) The State Treasurer may establish separate or commingled funds, or establish
14 separate or commingled accounts within funds established under this subsection. The State
15 Treasurer may establish separate or commingled accounts within in other funds in the State
16 Treasury, including the Oregon University System Fund established in ORS 351.506 and the
17 Higher Education Donation Fund established in ORS 351.130, to receive, hold, keep, manage
18 or invest moneys of a university with a governing board pursuant to any agreements entered
19 into by the State Treasurer and the university under ORS 352.135. The moneys in a fund or
20 account established under this subsection may be invested as provided in ORS 293.701 to
21 293.857 and any interest or other investment income derived from the fund or account shall
22 be credited to the fund or account. Notwithstanding the appropriations in ORS 351.130 and
23 351.506, all moneys held in a fund or account established under this subsection are contin-
24 uously appropriated to the relevant university with a governing board that has entered into
25 an agreement with the State Treasurer under ORS 352.135 for the purpose of carrying out
26 the powers and duties of the university with a governing board or the purposes for which the
27 moneys were donated.

28 “(b) Except for moneys held to provide for the payment of state bonds and other state
29 obligations described in ORS 352.089 (5), a university with a governing board may transfer
30 or lend the moneys held in the State Treasury pursuant to any agreements entered into
31 under ORS 352.135 to other public universities listed in ORS 352.002. A fund or account in the
32 State Treasury that holds moneys of a university with a governing board pursuant to an
33 agreement entered into under ORS 352.135 may be a borrowing fund for purposes of ORS
34 293.205 to 293.225 and may borrow from the Oregon Short Term Fund established in ORS
35 293.728 or other state funds. Subject to the limitations of Article XI, section 7 of the Oregon
36 Constitution, a fund or account in the State Treasury that holds moneys of a university with
37 a governing board pursuant to an agreement entered into under ORS 352.135 may be a lend-
38 ing fund for purposes of ORS 293.205 to 293.225 and may lend moneys to other state funds.
39 The university with a governing board that has entered into an agreement with the State
40 Treasurer under ORS 352.135 is the relevant state agency or department for whom the State
41 Treasurer may transfer funds or with whom the State Treasurer may enter into an agree-
42 ment pursuant to ORS 293.205 to 293.225.

43 “(c) Notwithstanding any other provision of law, ORS 293.169, 293.171, 293.353, 293.406,
44 293.450, 293.455, 293.460 and 293.465 to 293.485 apply to moneys received, held, kept, managed
45 or invested by the State Treasurer for a university with a governing board pursuant to an

1 agreement entered into under ORS 352.135 and to checks, warrants or electronic funds
2 transfers from or to any funds or accounts established pursuant to this subsection. For
3 purposes of ORS 293.169, 293.171, 293.353, 293.406, 293.450, 293.455, 293.460 and 293.465 to
4 293.485:

5 “(A) The university with a governing board that has entered into an agreement with the
6 State Treasurer under ORS 352.135 is the relevant state agency or department; and

7 “(B) The personnel of the university with a governing board authorized to provide in-
8 structions to the State Treasurer are the relevant state officers.”.

9 In line 25, delete “7.” and insert “8.” and after “(1)” insert “Section 7 of this 2014 Act and”.

10 In line 29, delete “8.” and insert “9.”.

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