

Enrolled
House Bill 4018

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Higher Education and Workforce Development)

CHAPTER

AN ACT

Relating to higher education; creating new provisions; amending ORS 351.735, 351.755 and 351.758 and section 168a, chapter 768, Oregon Laws 2013; appropriating money; and declaring an emergency.

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

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

Sec. 168a. (1) If the president of Oregon State University notifies the Governor between August 2, 2013, and January 1, 2014, that the university will become a university with a governing board:

(a) Within two weeks after receiving the notification, the Governor shall inform the President of the Senate, the Speaker of the House of Representatives and the Legislative Counsel of the notification; and

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

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

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

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

(B) **Not endorse the university's decision.**

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

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

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

(b) The conditions recommended for a university seeking a governing board may include, but are not limited to, financial thresholds that must be met by the governing board or other coordination conditions to ensure the university's financial stability and the stability of the university's programs.

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

(4)(a) A university whose decision is endorsed with conditions under subsection (2)(b)(C) of this section must fulfill the conditions not later than the date, if any, specified by the State Board of Higher Education and university president and endorsed by the Governor. If the Higher Education Coordinating Commission determines, as a result of a financial review and performance audit of the university and its governing board, that the university has not met the necessary conditions by the specified date, the commission shall notify the Governor.

(b) Within 90 days of receiving a notification under paragraph (a) of this subsection, the Governor may suspend the governing board and direct the university's administration to report to the governing board of a different university, direct the university to adopt a different governance structure or decide that the university should retain its governing board. Absent legislative action, the Governor's action is final and, unless the Governor decides to retain the governing board of the university, the governing board is disbanded at the conclusion of the next regular session of the Legislative Assembly.

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

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

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

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

SECTION 2. ORS 351.735 is amended to read:

351.735. (1) As used in this section, "student access programs" means scholarship, loan, grant and access programs described in ORS chapter 348.

(2) The Higher Education Coordinating Commission shall be guided by the legislative findings in ORS 341.009, 351.001 and 351.003 and the goals and mission of post-secondary education set forth in ORS 351.006 and 351.009.

(3) The Higher Education Coordinating Commission shall:

(a) Develop state goals and associated achievement compacts for the state post-secondary education system, including community colleges and public universities listed in ORS 352.002, and for student access programs.

(b) Determine strategic investments in the state's community colleges, public universities and student access programs necessary to achieve state post-secondary education goals.

(c) Coordinate the post-secondary elements of data collection and structure, with the advice and recommendation of the state's community colleges and public universities, as appropriate, in order to construct a state longitudinal data system.

(d) Adopt a strategic plan for achieving state post-secondary education goals, taking into consideration the contributions of this state's independent institutions, philanthropic organizations and other organizations dedicated to helping Oregonians reach state goals. State post-secondary education goals as described in this section should include, but need not be limited to:

- (A) Increasing the educational attainment of the population;
- (B) Increasing this state's global economic competitiveness and the quality of life of its residents;
- (C) Ensuring affordable access for qualified Oregon students at each college or public university;
- (D) Removing barriers to on-time completion; and
- (E) Tracking progress toward meeting the state's post-secondary education goals established in the strategic plan described in this paragraph.

(e)(A) Each biennium, after receiving funding requests from the state's community colleges and public universities as authorized by law, recommend to the Governor a consolidated higher education budget request aligned with the strategic plan described in subsection (3)(d) of this section, including appropriations for:

- (i) Student access programs;
- (ii) Public universities listed in ORS 352.002, including but not limited to education and general operations, statewide public services and state-funded debt service;
- (iii) Community colleges, including but not limited to education and general operations and state-funded debt service;
- (iv) New facilities or programs;
- (v) Capital improvements and deferred maintenance; and
- (vi) Special initiatives and investments.

(B) In the development of the consolidated higher education budget request:

- (i) Determine the costs necessary to provide quality post-secondary education;
- (ii) Solicit input from educators, education policy experts, appropriate legislative committees, students and other persons interested in the development of the funding model; and
- (iii) Solicit public input regarding educational priorities.

(f) Adopt rules governing the distribution of appropriations from the Legislative Assembly to community colleges, public universities listed in ORS 352.002 and student access programs. These rules must be based on allocation formulas developed in consultation with the state's community colleges and public universities, as appropriate.

(g) Approve or disapprove any significant change to the academic program of a community college or a public university listed in ORS 352.002. In reaching a decision under this paragraph, the commission shall consider the recommendation from the community college or public university seeking to make the change to an academic program that is issued pursuant to the obligation of the governing board of a community college or public university to review and approve academic programs. The commission shall ensure that approved programs:

- (A) Are consistent with the mission statement of the community college or public university;
- (B) Do not unnecessarily duplicate academic programs offered by Oregon's other community colleges or public universities;
- (C) Are not located in a geographic area that will cause undue hardship to Oregon's other community colleges or public universities; and
- (D) Are allocated among Oregon's community colleges and public universities to maximize the achievement of statewide needs and requirements.

(h) For public universities listed in ORS 352.002:

- (A) Approve the mission statement adopted by a governing board of a public university or by the State Board of Higher Education.
- (B) Review and determine whether a proposed annual increase of resident undergraduate enrollment fees, as described in ORS 351.063, of greater than five percent is appropriate.
- (C) Advise the Governor and the Legislative Assembly on issues of university governance.
- (D) Approve and authorize degrees.

(i) Authorize degrees to be offered by independent post-secondary institutions in this state under ORS 348.594 to 348.615.

(j) Oversee the licensing of career schools under ORS 345.010 to 345.450.

(k) Have the authority to enter into and administer interstate agreements regarding the provision of post-secondary distance education. The participation by an educational institution that is not based in this state in distance learning courses or programs that are part of an interstate agreement entered into and administered under this paragraph does not constitute operating in this state for purposes of ORS 348.594 to 348.615. The commission, by rule, may impose a fee on any educational institution that seeks to operate under or participate in such interstate agreements. The fee amount shall be established to recover designated expenses incurred by the commission in participating in such agreements.

(4) In addition to the duties described in subsections (2) and (3) of this section, the Higher Education Coordinating Commission shall advise the Legislative Assembly, the Governor, community colleges, public universities and other state boards and commissions on policies in order to:

(a) Ensure or improve access to higher education by diverse and underserved populations.

(b) Encourage student success and completion initiatives.

(c) Improve the coordination of the provision of educational services, including:

(A) Transfers and coenrollment throughout the higher education system;

(B) Accelerated college credit programs for high school students;

(C) Applied baccalaureate and other transfer degrees;

(D) Programs and grants that span multiple institutions; and

(E) Reciprocity agreements with other states.

(d) In coordination with the State Board of Education, enhance the use and quality of dual credit, career and technical pathways and efforts to create a culture of college attendance in this state.

(e) In coordination with the State Workforce Investment Board, local workforce investment boards, the Oregon Health and Science University and independent institutions, ensure that the state's colleges and universities offer programs in high-demand occupations that meet Oregon's workforce needs.

(f) Improve economies of scale by encouraging and facilitating the use of the shared services among post-secondary institutions in this state.

(5) The Higher Education Coordinating Commission, in a manner consistent with ORS chapter 183, may adopt administrative rules.

(6) With the exception of the rulemaking authority granted in subsection (5) of this section, the Higher Education Coordinating Commission may delegate any of its powers, duties or functions to a committee of the commission or to the executive director of the commission.

(7) The Higher Education Coordinating Commission may establish technical or advisory committees to assist the commission in exercising its powers, duties and functions.

(8) The Higher Education Coordinating Commission may exercise only powers, duties and functions expressly granted by the Legislative Assembly. Except as otherwise expressly provided by law, all other authorities reside at the institutional level with the respective boards of the post-secondary institutions.

SECTION 3. ORS 351.755 is amended to read:

351.755. (1) The Department of Community Colleges and Workforce Development **is established within the Higher Education Coordinating Commission. The department** shall function under the direction and control of the [*Higher Education Coordinating*] commission, with the Commissioner for Community College Services serving as an administrative officer for community college matters.

(2) The Department of Community Colleges and Workforce Development, in consultation with the Education and Workforce Policy Advisor and pursuant to ORS chapter 183, may adopt any rules necessary for the administration of laws related to the federal Workforce Investment Act that the department is charged with administering.

SECTION 4. ORS 351.758 is amended to read:

351.758. (1) The Department of Community Colleges and Workforce Development Account is established separate and distinct from the General Fund. Except for moneys otherwise designated by statute, all fees, assessments and other moneys received by the Department of Community Colleges and Workforce Development shall be deposited into the State Treasury and credited to the account. All moneys in the account are continuously appropriated to the [department] **Higher Education Coordinating Commission** for purposes authorized by law.

(2) The department may accept gifts, grants and donations from any source to carry out the duties imposed upon the department. Moneys received under this subsection shall be paid into the account.

(3) The department shall keep a record of all moneys deposited into the account. The record shall indicate by separate cumulative subaccounts the sources from which the moneys are derived and the individual activity or program against which each withdrawal is charged.

(4) Disbursements from the account shall be made as directed by the [department] **Higher Education Coordinating Commission**.

SECTION 5. (1) The Task Force on Integrating the Department of Community Colleges and Workforce Development into the Higher Education Coordinating Commission is established, consisting of seven members as follows:

(a) **The President of the Senate shall appoint one member from among members of the Senate.**

(b) **The Speaker of the House of Representatives shall appoint one member from among members of the House of Representatives.**

(c) **The executive director of the Higher Education Coordinating Commission.**

(d) **The executive director of the Higher Education Coordinating Commission shall appoint:**

(A) **One member from among members of the Higher Education Coordinating Commission; and**

(B) **Three members who represent community colleges.**

(2) **The task force shall analyze how the Department of Community Colleges and Workforce Development can best be integrated into the Higher Education Coordinating Commission.**

(3) **A majority of the members of the task force constitutes a quorum for the transaction of business.**

(4) **Official action by the task force requires the approval of a majority of the members of the task force.**

(5) **The task force shall elect one of its members to serve as chairperson.**

(6) **If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.**

(7) **The task force shall meet at times and places specified by the call of the chairperson or of a majority of the members of the task force.**

(8) **The task force may adopt rules necessary for the operation of the task force.**

(9) **The task force shall submit a report in the manner provided by ORS 192.245, and may include recommendations for legislation, to the interim committees of the Legislative Assembly related to higher education no later than September 1, 2014.**

(10) **The Higher Education Coordinating Commission shall provide staff support to the task force.**

(11) **Members of the task force who are not members of the Legislative Assembly are not entitled to compensation, but may be reimbursed for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495. Claims for expenses incurred in performing functions of the task force shall be paid out of funds appropriated to the Higher Education Coordinating Commission for purposes of the task force.**

(12) All agencies of state government, as defined in ORS 174.111, are directed to assist the task force in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice as the members of the task force consider necessary to perform their duties.

SECTION 6. Section 5 of this 2014 Act is repealed on the date of the convening of the 2015 regular session of the Legislative Assembly as specified in ORS 171.010.

SECTION 7. (1) The Public University Fund is established in the State Treasury, separate and distinct from the General Fund. Any interest or other investment income derived from moneys in the Public University Fund is credited to the fund.

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

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

(b) The participating public universities shall inform the State Treasurer of the designated public university responsible for the Public University Fund. The participating public universities may change which participating public university is responsible for the Public University Fund.

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

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

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

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

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

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

(8) Notwithstanding any other provision of law, public universities that participate in the Public University Fund or, as appropriate, the public university designated under subsection (3)(a) of this section, may transfer or lend the moneys in the fund to other participating public universities listed in ORS 352.002. The Public University Fund may be a borrowing fund for purposes of ORS 293.205 to 293.225 and may borrow from the Oregon Short Term Fund established in ORS 293.728 or other state funds. Subject to the limitations of Article XI, section 7 of the Oregon Constitution, the Public University Fund may be a lending fund for purposes of ORS 293.205 to 293.225 and may lend moneys to other state funds. The public university designated under subsection (3)(a) of this section shall be the relevant state agency or department for whom the State Treasurer may transfer funds or with whom the State Treasurer may enter into an agreement pursuant to ORS 293.205 to 293.225.

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

(a) The public university designated under subsection (3)(a) of this section is the relevant state agency or department; and

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

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

(b) Except for moneys held to provide for the payment of state bonds and other state obligations described in ORS 352.089 (5), a university with a governing board may transfer or lend the moneys held in the State Treasury pursuant to any agreements entered into under ORS 352.135 to other public universities listed in ORS 352.002. A fund or account in the State Treasury that holds moneys of a university with a governing board pursuant to an agreement entered into under ORS 352.135 may be a borrowing fund for purposes of ORS 293.205 to 293.225 and may borrow from the Oregon Short Term Fund established in ORS 293.728 or other state funds. Subject to the limitations of Article XI, section 7 of the Oregon Constitution, a fund or account in the State Treasury that holds moneys of a university with a governing board pursuant to an agreement entered into under ORS 352.135 may be a lending fund for purposes of ORS 293.205 to 293.225 and may lend moneys to other state funds. The university with a governing board that has entered into an agreement with the State Treasurer under ORS 352.135 is the relevant state agency or department for whom the State Treasurer may transfer funds or with whom the State Treasurer may enter into an agreement pursuant to ORS 293.205 to 293.225.

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

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

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

(B) The personnel of the university with a governing board authorized to provide instructions to the State Treasurer are the relevant state officers.

SECTION 8. (1) Section 7 of this 2014 Act and the amendments to ORS 351.735 by section 2 of this 2014 Act become operative on July 1, 2014.

(2) The amendments to ORS 351.755 and 351.758 by sections 3 and 4 of this 2014 Act become operative on July 1, 2015.

SECTION 9. This 2014 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2014 Act takes effect on its passage.

Passed by House March 6, 2014

.....
Ramona J. Line, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate March 7, 2014

.....
Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2014

Approved:

.....M.,....., 2014

.....
John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M.,....., 2014

.....
Kate Brown, Secretary of State