

Chapter 367

1999 EDITION

State Financing of Transportation

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FINANCING FOR TRANSPORTATION PROJECTS

367.010 Definitions for ORS 367.010 to 367.060. As used in ORS 367.010 to 367.060:

- (1) “Agency” means any department, agency or commission of the State of Oregon.
- (2) “Commission” means the Oregon Transportation Commission.
- (3) “Department” means the Department of Transportation.
- (4) “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 367.060.
- (5) “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, leases or loans obtained by municipalities to finance transportation projects.
- (6) “Infrastructure bonds” means bonds authorized by ORS 367.226 to 367.242, 367.258, 367.370 to 367.430, 367.550 to 367.600 or 367.605 to 367.670 that are issued to fund infrastructure loans or provide infrastructure assistance and the proceeds of which are deposited in the infrastructure fund, or bonds authorized by ORS 367.030.
- (7) “Infrastructure fund” means the Oregon Transportation Infrastructure Fund.
- (8) “Infrastructure loan” means a loan of moneys in the Oregon Transportation Infrastructure Fund to finance a transportation project.
- (9) “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.

(10) "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 facilities that facilitate the transportation of materials, animals or people. [1997 c.679 s.1; 1999 c.1036 s.3]

Note: 367.010 to 367.060 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 367 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

367.015 Oregon Transportation Infrastructure Fund; sources; uses; investment. (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 367.060.

(2) The Oregon Transportation Infrastructure Fund shall consist 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) Earnings on the infrastructure fund.

(f) Moneys paid to the department in connection with infrastructure loans or infrastructure assistance.

(g) Any grants or donations made to the State of Oregon for deposit in the infrastructure fund.

(3) Moneys in the Oregon Transportation Infrastructure Fund shall be used solely to:

(a) Provide infrastructure loans and infrastructure assistance;

(b) Pay the principal of, interest on and redemption premium, if any, on infrastructure bonds, fund reserves for infrastructure bonds, purchase credit enhancements for infrastructure bonds and pay the costs of issuance and other costs related to infrastructure bonds; and

(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.

(4) The department may establish separate accounts in the infrastructure fund for infrastructure loans, infrastructure assistance, the funding of infrastructure bond reserves, 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 367.060. The commission may adopt rules that govern how the infrastructure fund and its accounts shall be used. The infrastructure fund or any of its accounts may be held by an escrow agent or bond trustee.

(5) 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 shall be credited to the account in the infrastructure fund designated by the department. [1997 c.679 s.2]

Note: See note under 367.010.

367.020 Loans and other assistance to public and private entities; other authorized purposes. (1) Moneys in the Oregon Transportation Infrastructure Fund may be used to make infrastructure loans and provide infrastructure assistance to any public or private entity. The Oregon Transportation Commission shall adopt rules that prescribe procedures and standards for making infrastructure loans and providing infrastructure assistance.

(2) Moneys in the Oregon Transportation Infrastructure Fund may be used for any purpose as long as the use is consistent with any restrictions of the Oregon Constitution that may apply to such moneys. [1997 c.679 ss.3,4]

Note: See note under 367.010.

367.025 Issuance of infrastructure bonds. (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) 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 agreement with bond underwriters, trustees, financial advisers, bond counsel and other persons to carry out ORS 367.010 to 367.060. [1997 c.679 s.5]

Note: See note under 367.010.

367.030 Issuance of revenue bonds; bond covenants; maximum amount of bonds. (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 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 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 367.060 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. [1997 c.679 s.6]

Note: See note under 367.010.

367.035 Loans to municipalities; authority of municipalities; repayment plan. (1) Notwithstanding any other provision of law or any restriction on indebtedness contained in a charter, a municipality may obtain an infrastructure loan from the Department of Transportation by entering into a loan contract with the department. A municipality that obtains an infrastructure loan may pledge to the repayment of the loan all or any portion of the revenue sources specified in this subsection. A municipality shall repay an infrastructure loan in accordance with the terms of the loan contract and to the extent required by the loan contract from any or all of the following sources:

(a) Revenues of any transportation project, including special assessment revenues;

(b) Moneys withheld under subsection (4) of this section;

(c) The general fund of the municipality;

(d) Any combination of paragraphs (a) to (c) of this subsection; or

(e) Any other sources.

(2) An infrastructure loan contract with a municipality may provide that a portion of the proceeds of the loan be applied to fund a reserve fund to secure the repayment of the loan or secure the repayment of revenue bonds issued to finance the loan.

(3) A municipality that intends to obtain an infrastructure loan shall adopt an ordinance or resolution authorizing the infrastructure loan and shall publish notice describing its intention to obtain an infrastructure loan at least once in a newspaper of general circulation within the municipality. A municipality may not enter into an infrastructure loan contract until 14 calendar days after the notice has been published.

(4) If a municipality fails to comply with the terms of an infrastructure loan contract, the department may seek any legal or equitable remedy to obtain compliance or payment of damages. If any municipality fails to make infrastructure loan payments when due, the State of Oregon shall, at the request of the department, withhold any funds due to the

municipality from the state and apply the amounts withheld to pay the amounts due from the municipality under the infrastructure loan contract. Any amounts withheld under this subsection shall be deposited in the account of the infrastructure fund to which the municipality's infrastructure loan payments are required to be deposited. The department may waive the right of the State of Oregon to withhold moneys under this subsection. [1997 c.679 s.7]

Note: See note under 367.010.

367.040 Loans to state agencies; loan contract. (1) Notwithstanding ORS 283.087 (5), an agency may obtain an infrastructure loan. An agency may agree to pay the infrastructure loan from any or all of the available moneys that are continuously appropriated to the agency and may pledge all or any portion of those moneys to repay the infrastructure loan. An infrastructure loan of an agency 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.

(2) If an infrastructure loan is made to an agency, the terms of the infrastructure loan contract shall bind the State of Oregon and the agency, and the agency shall unconditionally repay the infrastructure loan from the moneys the agency has pledged in accordance with the terms of the infrastructure loan contract. [1997 c.679 s.8]

Note: See note under 367.010.

367.050 Powers of department. The Department of Transportation may:

(1) Make all contracts, execute all instruments and do all things necessary or convenient to provide financial assistance for transportation projects in accordance with ORS 367.010 to 367.060 or to perform covenants made to secure infrastructure bonds; and

(2) Enter into and perform such contracts and agreements with entities concerning the planning, construction, lease or other acquisition, installation or financing of transportation projects. [1997 c.679 s.9]

Note: See note under 367.010.

367.060 Department pledge to ensure loan guarantees; transfer of moneys from State Highway Fund. (1) The Department of Transportation may pledge not more than \$10 million to ensure the repayment of loan guarantees or other extensions of credit made to or on behalf of municipalities to finance transportation projects. The lien of a pledge made under this subsection is subordinate to the lien of a pledge securing bonds issued under ORS 367.605 to 367.670.

(2) If, during a fiscal year, the moneys in the Oregon Transportation Infrastructure Fund are insufficient to cover any claims by financial institutions that arise from loan guarantees or other extensions of credit made under ORS 367.010 to 367.060, the department shall transfer, as often as necessary or appropriate in that fiscal year, moneys from the State Highway Fund to satisfy such claims. However, a transfer of moneys from the State Highway Fund otherwise required by this section shall not be made if:

(a) The transfer will reduce the moneys in the State Highway Fund to an amount that is insufficient to pay the principal and interest that will fall due during the fiscal year on outstanding bonds issued under ORS 367.226 to 367.242 and 367.550 to 367.600; or

(b) The transfer relates to a claim arising out of a transportation project for which moneys in the State Highway Fund may not be used under section 3a, Article IX, Oregon Constitution, and ORS 366.505. [1999 c.1036 s.2]

Note: See note under 367.010.

Note: Chapter 1087, Oregon Laws 1999, takes effect on the effective date of chapter 1060, Oregon Laws 1999. Chapter 1060 was referred to the people by referendum petition for their approval or rejection at the biennial primary election to be held throughout this state on May 16, 2000. If chapter 1060 is approved by the people, chapter 1087, Oregon Laws 1999, takes effect on June 15, 2000. If chapter 1060 is not approved by the people, chapter 1087, Oregon Laws 1999, is repealed. See section 5, chapter 1087, Oregon Laws 1999. Sections 1 to 3, 5 and 6, chapter 1087, Oregon Laws 1999, are set forth for the user's convenience.

Sec. 1. (1) As used in this section, "identified revenues" means the amount of the state income tax revenues that result directly or indirectly from the additional public sector transportation expenditures financed by the increase in state revenues available for payment to contractors as a result of chapter 1060, Oregon Laws 1999, and by the increase

in revenue available for payment to contractors as a result of the federal Transportation Equity Act for the 21st Century.

(2) The Transportation Reinvestment Account, separate and distinct from the General Fund, is established in the State Treasury. Moneys in the account, including identified revenues as certified under section 2 of this 1999 Act, all investment earnings from the account and any other revenues credited or appropriated to the account, are appropriated continuously to the Department of Transportation for the purposes described in subsection (3) of this section. In addition to any other amounts appropriated or credited to the account, the Director of Transportation may credit to the account any moneys realized by the department under contracts, intergovernmental agreements and other financial arrangements established by the department with respect to transportation programs.

(3) Moneys from the Transportation Reinvestment Account shall be used as follows:

(a)(A) To pay any amounts that become due and payable to the Director of Veterans' Affairs under the loan described in section 3 of this 1999 Act. Amounts shall be due and payable upon receipt by the Director of Transportation of notice from the Director of Veterans' Affairs that a specified amount is due and payable, as set forth in the Interagency Loan Agreement, and on the specified maturity date of the loan.

(B) Prior to the biennium beginning July 1, 2001, if the Director of Transportation has not received notice from the Director of Veterans' Affairs, or if there are any moneys remaining in the account after any required payments to the Director of Veterans' Affairs, the moneys in the account may be used as provided in paragraphs (b) and (c) of this subsection.

(C) For the biennium beginning July 1, 2001, and for all subsequent biennia until the loan described in section 3 of this 1999 Act is paid in full, moneys in the account may not be used as provided in paragraphs (b) and (c) of this subsection.

(D) After the loan is paid in full, moneys in the account may be used as provided in paragraphs (b) and (c) of this subsection.

(b) Subject to paragraph (a) of this subsection, the sum of \$5 million shall be transferred to the Department of Transportation and is appropriated to the department for public transportation for the elderly and disabled.

(c) Subject to paragraph (a) of this subsection, the sum of \$10 million shall be transferred to the Department of Transportation and is appropriated to the department for the Pacific Northwest High Speed Rail Corridor. [1999 c.1087 s.1]

Sec. 2. (1) In preparation of each budget report required under ORS 291.202, the Oregon Department of Administrative Services, in consultation with the Legislative Revenue Officer and the Department of Transportation, shall certify an estimate of the amount of identified revenues to be collected during the biennium covered by the report.

(2) A certified estimate as described in subsection (1) of this section shall be included in each budget report prepared by the Governor. The amount certified under this section is appropriated out of the General Fund to the Transportation Reinvestment Account for the biennium covered in the budget report.

(3) As used in this section, "identified revenues" has the meaning given that term in section 1 of this 1999 Act. [1999 c.1087 s.2]

Sec. 3. (1) The Director of Veterans' Affairs and the Department of Transportation may enter into an Interagency Loan Agreement under which the Director of Veterans' Affairs may loan to the Department of Transportation from the Oregon War Veterans' Fund described in ORS 407.495 an amount not to exceed \$15 million. The moneys loaned to the Department of Transportation shall be deposited in the Transportation Reinvestment Account established by section 1 of this 1999 Act and used as provided in section 1 of this 1999 Act. The term of the loan may not exceed a period of four years from the date of the loan. The loan shall be repaid with interest at the rate of eight percent per annum.

(2) The Department of Transportation shall pay all amounts due and payable under the loan from moneys deposited in the Transportation Reinvestment Account or from other moneys available to the department for such purposes, including but not limited to moneys obtained through an interfund loan pursuant to ORS 293.205 to 293.225. If there are insufficient moneys deposited in the Transportation Reinvestment Account or otherwise available to the department to pay any amount due and payable, and the Legislative Assembly is not in session, the Emergency Board shall at its next regularly scheduled meeting provide for payment of the amount due and payable from moneys deposited in the General Fund and appropriated to the Emergency Board. If there are insufficient moneys deposited in the Transportation Reinvestment Account or otherwise available to the department to pay any amount due and payable, and the Legislative Assembly is in session, the Legislative Assembly shall provide for payment of the amount due and

payable from moneys in the General Fund.

(3) If the Director of Veterans' Affairs determines that any of the moneys loaned to the Department of Transportation are needed for the purposes set forth in Article XI-A of the Oregon Constitution and ORS chapter 407, the director shall notify the Department of Transportation that a specified amount, that may equal up to the full amount of the outstanding principal balance of the loan, together with accrued unpaid interest thereon, is immediately due and payable. Upon receipt of such notice, the Director of Transportation shall repay the specified amount as provided in subsection (2) of this section.

(4) The authority of the Director of Veterans' Affairs to loan moneys to the Department of Transportation as set forth in this section is subject to the following conditions:

(a) The loan shall not violate current restrictions on the use of moneys in the Oregon War Veterans' Fund imposed under federal law.

(b) The loan shall not adversely affect the repayment of, security for, tax exempt status of or any other aspect of outstanding bonds issued by the Department of Veterans' Affairs under the authority of Article XI-A of the Oregon Constitution.

(c) The loan shall not violate Article XI-A of the Oregon Constitution.

(d) The loan shall be approved by the State Treasurer as an investment that meets the criteria for investing set forth in ORS 293.721 and 293.726. [1999 c.1087 s.3]

Sec. 5. If House Bill 2082 becomes law, this 1999 Act takes effect on the effective date of chapter 1060, Oregon Laws 1999. If House Bill 2082 does not become law, this 1999 Act is repealed. [1999 c.1087 s.5]

Sec. 6. This 1999 Act is repealed on December 31, 2004. The repeal of this 1999 Act does not affect the duty of the Department of Transportation to repay any loan made to the department under the terms of this 1999 Act. [1999 c.1087 s.6]

CERTIFICATES OF INDEBTEDNESS

367.105 Borrowing money and issuing certificates of indebtedness for certain highway purposes. (1) The Department of Transportation may borrow money from the State Treasurer or from any banking institution, and evidence the debt by certificates of indebtedness redeemable and payable out of state highway revenues for any of the following purposes:

(a) Providing matching funds as set forth in ORS 366.725.

(b) Providing funds with which to pay when due the interest and principal, or either, 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.

(2) Such certificates of indebtedness may be in such denominations or for such sums as the department may fix, and may draw interest at a negotiated rate.

(3) The total outstanding indebtedness created by the issuance of certificates of indebtedness under this section shall not exceed \$25 million in the aggregate.

(4) All certificates of indebtedness issued pursuant to this section shall mature within one year from the date of issuance.

(5) Not less than 10 days before the date of maturity of any such certificate of indebtedness the department shall prepare and approve for payment a claim or voucher covering the amount of the certificate, together with such interest as may be due thereon, and shall file the claim or voucher with the Oregon Department of Administrative Services which shall issue a warrant therefor payable out of highway funds to the party entitled thereto. The State Treasurer may, upon the presentation of the warrant, take up the certificate of indebtedness and cancel it, and pay the amount of the warrant out of highway funds. Whenever a certificate of indebtedness is redeemed and paid by the State Treasurer the treasurer shall file it with the Oregon Department of Administrative Services, and the department shall attach the certificate to the original voucher pursuant to which payment of the certificate is made. [Formerly 366.605; 1969 c.427 s.1; 1975 c.614 s.11; 1981 c.94 s.32; 1981 c.311 s.1; 1991 c.793 s.3]

367.155 [Formerly part of 366.735; repealed by 1981 c.660 s.18]

367.160 [Formerly 366.740; 1981 c.94 s.33; repealed by 1981 c.660 s.18]

367.165 [Formerly 366.745; repealed by 1981 c.660 s.18]

367.170 [Formerly 366.750; repealed by 1981 c.660 s.18]

367.175 [Formerly 366.755; 1975 c.462 s.5; repealed by 1981 c.660 s.18]

367.180 [Formerly 366.760; repealed by 1981 c.660 s.18]

367.185 [1975 c.436 s.6; repealed by 1981 c.660 s.18]

367.202 [Formerly 366.625; repealed by 1963 c.61 s.1]

367.204 [Formerly 366.627; repealed by 1963 c.61 s.1]

367.206 [Formerly 366.629; repealed by 1963 c.61 s.1]

367.208 [Formerly 366.631; repealed by 1963 c.61 s.1]

367.210 [Formerly 366.633; repealed by 1963 c.61 s.1]

367.212 [Formerly 366.635; repealed by 1963 c.61 s.1]

367.214 [Formerly 366.637; repealed by 1963 c.61 s.1]

367.216 [Formerly 366.639; repealed by 1963 c.61 s.1]

367.218 [Formerly 366.641; repealed by 1963 c.61 s.1]

367.220 [Formerly 366.643; repealed by 1963 c.61 s.1]

BONDED INDEBTEDNESS FOR STATE HIGHWAYS

(Bond Act of 1951)

367.226 Authority to sell limited amount of bonds under ORS 367.226 to 367.242. In addition to the authority now vested by law in the Department of Transportation to issue and sell state highway bonds of the state, the department may issue and sell state highway bonds of the state to provide funds to defray the costs of location, relocation, improvement, construction and reconstruction of state highways and bridges. The principal amount of bonds that may be issued in any one calendar year under authority of ORS 367.226 to 367.242 shall not exceed \$15 million par value. At no time shall the principal amount of such bonds outstanding exceed \$40 million par value. [Formerly 366.645]

367.228 Formal requirements and conditions of bonds issued under ORS 367.226 to 367.242. (1) At the request of the State Treasurer, the Attorney General shall prepare a form of interest-bearing general obligation bond of the State of Oregon or a Highway User Tax Bond to carry out the purposes of ORS 367.226 to 367.242.

(2) The bonds referred to in subsection (1) of this section shall:

(a) Conform to the requirements of ORS 286.010 to 286.545 or, if Highway User Tax Bonds, to the requirements of ORS 367.605 to 367.670.

(b) Be sold in the manner determined by the State Treasurer as authorized by law. [Formerly 366.650; 1989 c.610 s.1]

367.230 Sale of short-term bonds. Whenever in the judgment of the Department of Transportation it is consistent with the best interest of the state and will more efficiently and adequately promote highway construction, the department may sell bonds under ORS 367.226 to 367.242 maturing at a date not later than five years from the issue date. [Formerly 366.655]

367.232 Issuance of refunding bonds. (1) The Department of Transportation may issue refunding bonds for the purpose of refunding outstanding bonds issued under ORS 367.226 to 367.242.

(2) The refunding bonds may be sold in the same manner as other bonds are sold under ORS 367.226 to 367.242.

(3) The issuance of the refunding bonds, the maturity dates and other details thereof, the rights of the holders thereof and the duties of the Governor, Secretary of State and State Treasurer with respect thereto, shall be governed by the other provisions of ORS 367.226 to 367.242, in so far as applicable.

(4) The refunding bonds may be issued to refund bonds originally issued or to refund bonds previously issued for refunding purposes. [Formerly 366.660]

367.234 Redemption of bonds before maturity. In its discretion, the Department of Transportation may issue bonds, as provided in ORS 286.031 to 286.041 with reservation of the right to redeem them for retirement or refunding purposes prior to the final dates of maturity. [Formerly 366.665; 1981 c.660 s.20]

367.236 Setting aside sufficient moneys to pay maturing bonds issued under ORS 367.226 to 367.242. The Department of Transportation shall compute and determine in January of each year, after the sale of bonds under ORS 367.226 to 367.242, the amount of principal and interest which will fall due during the year on bonds then outstanding and unpaid, and shall maintain or hold in the highway fund sufficient moneys to pay the maturing obligations. [Formerly 366.670]

367.238 Payment of principal and interest on bonds; destruction of paid bonds and interest coupons. (1) The Department of Transportation shall pay the principal and interest upon bonds authorized by ORS 367.226 to 367.242 as they become due from any funds subject to its control from whatever source they may come, without regard to their origin.

(2) Not less than 20 days before the due date for the payment of the principal of and the interest on any bond issued under ORS 367.226 to 367.242, the department shall prepare and submit to the State Treasurer for verification a claim in an amount sufficient to meet the payment. Upon verification, the department shall present the claim to the Oregon Department of Administrative Services which thereupon shall draw a warrant upon the State Treasurer in payment of the claim.

(3) All bonds authorized by ORS 367.226 to 367.242 and interest coupons surrendered to the State Treasurer upon payment shall be retained and then destroyed as provided in ORS 288.120. [Formerly 366.675; 1975 c.462 s.6; 1983 c.740 s.120]

367.240 [Formerly 366.680; repealed by 1989 c.610 s.3]

367.242 Disposition and use of bond proceeds. All moneys obtained from the sale of bonds under ORS 367.226 to 367.242 shall immediately be paid over to the State Treasurer and credited by the State Treasurer to the highway fund. Such moneys shall be used only for the purposes stated in ORS 367.226 to 367.242. [Formerly 366.685]

367.252 [Formerly 366.688; repealed by 1981 c.660 s.18]

367.254 [Formerly 366.689; 1967 c.335 s.43; repealed by 1981 c.660 s.18]

367.256 [Formerly 366.690; repealed by 1981 c.660 s.18]

(Bond Act of 1953)

367.258 Bonds payable in installments; bonds may be redeemed for retirement or refunding; bonds and coupons negotiable; execution of bonds and coupons. Each issue of bonds shall be payable in such principal installments and upon such maturity date or dates as shall be determined by the State Treasurer, provided that the

earliest maturity date of any of the bonds of an issue shall be not less than one year and the final maturity date not more than 20 years from the date of issue thereof. In the treasurer's discretion, the State Treasurer may issue the bonds, as provided in ORS 286.031 to 286.041, with reservation of the right to redeem the bonds for retirement or refunding purposes prior to the final date or dates of maturity thereof. The bonds and the appurtenant coupons, if any, shall be negotiable in form and shall embody an absolute and unconditional promise of the State of Oregon to pay the principal of and the interest upon the bonds, when due, in any coin or currency which, at the time of payment, is legal tender for the payment of public and private debts within the United States of America. The bonds shall be executed as provided for in ORS 286.031 to 286.041. The bonds shall bear coupons, if any, evidencing the interest to become due thereon for each installment thereof. The first coupon, if any, of each issue of bonds may be for a period of more or less than six months but of not more than one year, if, in the judgment of the department, the issuance of the bonds with such coupons, if any, is advisable. The coupons, if any, shall be executed with the facsimile signature, with the title of office thereunder, of each of the officers named in ORS 286.031 to 286.041. Bonds issued under authority of the Bond Act of 1953 and the interest coupons, if any, annexed thereto, bearing the signatures of officers in office on the date of the execution of the bonds shall be valid and legally binding obligations, notwithstanding that before delivery of the bonds to the purchasers thereof any or all of the officers shall have ceased to be such. [Formerly 366.691; 1981 c.660 s.21; 1991 c.67 s.91]

367.260 [Formerly 366.692; 1975 c.462 s.7; repealed by 1981 c.660 s.18]

367.262 [Formerly 366.693; repealed by 1981 c.660 s.18]

367.264 [Formerly 366.694; repealed by 1981 c.660 s.18]

367.266 [Formerly 366.695; repealed by 1981 c.660 s.18]

367.268 [Formerly 366.696; repealed by 1981 c.660 s.18]

367.270 [Formerly 366.697; repealed by 1981 c.660 s.18]

367.282 [Formerly 366.6980; repealed by 1981 c.660 s.18]

367.284 [Formerly 366.6981; repealed by 1981 c.660 s.18]

367.286 [Formerly 366.6982; 1967 c.335 s.44; repealed by 1981 c.660 s.18]

367.288 [Formerly 366.6983; repealed by 1981 c.660 s.18]

367.290 [Formerly 366.6984; repealed by 1981 c.660 s.18]

367.292 [Formerly 366.6985; 1975 c.462 s.8; repealed by 1981 c.660 s.18]

367.294 [Formerly 366.6986; repealed by 1981 c.660 s.18]

367.296 [Formerly 366.6987; repealed by 1981 c.660 s.18]

367.298 [Formerly 366.6988; repealed by 1981 c.660 s.18]

367.300 [Formerly 366.6989; repealed by 1981 c.660 s.18]

367.302 [Formerly 366.6990; repealed by 1981 c.660 s.18]

367.324 [Formerly 366.7000; repealed by 1981 c.660 s.18]

367.326 [Formerly 366.7001; repealed by 1981 c.660 s.18]

367.328 [Formerly 366.7002; 1967 c.335 s.45; repealed by 1981 c.660 s.18]

367.330 [Formerly 366.7003; repealed by 1981 c.660 s.18]

367.332 [Formerly 366.7004; repealed by 1981 c.660 s.18]

367.334 [Formerly 366.7005; 1975 c.462 s.9; repealed by 1981 c.660 s.18]

367.336 [Formerly 366.7006; repealed by 1981 c.660 s.18]

367.338 [Formerly 366.7007; repealed by 1981 c.660 s.18]

367.340 [Formerly 366.7008; repealed by 1981 c.660 s.18]

367.344 [Formerly 366.7009; repealed by 1981 c.660 s.18]

367.346 [Formerly 366.7010; repealed by 1981 c.660 s.18]

367.365 [Formerly 366.7020; repealed by 1981 c.660 s.18]

(Bond Act of 1959)

367.370 Authority to sell limited amounts of bonds. (1) In addition to the authority now vested by law to issue and sell state highway bonds of the State of Oregon, and notwithstanding the limitations contained in other laws, the State Treasurer, subject to subsection (2) of this section, shall issue and sell state highway bonds of the State of Oregon to provide funds to defray the costs, incurred after March 1, 1961, of location and construction of a bridge over the Columbia River, but excluding costs of location, relocation, improvement, construction or reconstruction of approaches as shown and described in "A Report On A Proposed Bridge Across The Columbia River," prepared by the Oregon and Washington State Highway Commissions, dated January 1959. For such purposes the Department of Transportation shall issue bonds in the aggregate principal sum of not to exceed \$24 million par value.

(2) The State Treasurer shall not issue bonds under subsection (1) of this section unless and until the State of Washington, by law, has imposed, to the extent provided in subsection (3) of this section, a first and prior charge against all revenues subsequently derived from the proceeds of state excise taxes on motor vehicle fuels directed by law to be deposited in the Washington motor vehicle fund available for Washington State Highway Commission purposes, and an agreement or agreements have been entered into between the Oregon Department of Transportation and the Washington State Highway Commission whereby, among other things, the State of Washington is bound to pay from any moneys in the Washington motor vehicle fund not otherwise pledged or from any other source available to the Washington State Highway Commission for such purpose the amounts as provided in subsection (3) of this section.

(3) To the extent that revenues derived from the imposition and collection of tolls and franchise fees for the use of the bridge referred to in subsection (1) of this section in any year are insufficient to provide for the payment of principal, interest and other charges incidental to the issuance, sale and retirement of the bonds referred to in subsection (1) of this section and refunding bonds for the purpose of refunding outstanding bonds issued under subsection (1) of this section or such refunding bonds, the State of Oregon shall pay the first \$100,000 of such deficit for such year, and the State of Washington shall pay, when due, 40 percent of the balance of such deficit for such year; except that in no case shall the portion of such deficit paid by the State of Washington exceed \$200,000 in any such year. [Formerly 366.7021; 1981 c.660 s.48]

367.372 [1961 c.381 s.2; repealed by 1981 c.660 s.18]

367.380 [Formerly 366.7022; 1967 c.335 s.46; repealed by 1981 c.660 s.18]

367.385 [Formerly 366.7023; repealed by 1981 c.660 s.18]

367.390 [Formerly 366.7024; repealed by 1981 c.660 s.18]

367.395 [Formerly 366.7025; 1975 c.462 s.10; repealed by 1981 c.660 s.18]

367.400 [Formerly 366.7026; repealed by 1981 c.660 s.18]

367.405 [Formerly 366.7027; repealed by 1981 c.660 s.18]

367.410 [Formerly 366.7028; repealed by 1981 c.660 s.18]

367.415 Use of revenues from bridge financed with receipts from certain bonds. In addition to the other provisions of ORS 367.370 and this section relating to the payment of the principal, interest and other charges incidental to the issuance, sale and retirement of bonds issued under ORS 367.370 (1) and refunding bonds for the purpose of refunding outstanding bonds issued under ORS 367.370 (1) or such refunding bonds, and notwithstanding any other provision of law, all revenues derived from the imposition and collection of tolls and franchise fees for the use of the bridge referred to in ORS 367.370 (1) shall be used for the following purposes in the following order:

(1) Payment of all costs of toll collection and insurance in the event the bridge is insured; and then

(2) Payment of the principal, interest and other charges incidental to the issuance, sale and retirement of the bonds issued under ORS 367.370 (1) and refunding bonds for the purpose of refunding outstanding bonds issued under ORS 367.370 (1) or such refunding bonds. [Formerly 366.7029; 1981 c.660 s.49]

367.420 [Formerly 366.7030; repealed by 1981 c.660 s.18]

367.425 [1961 c.345 s.3; repealed by 1981 c.660 s.18]

367.430 When bridge constructed under ORS 367.370 to be free of tolls. The bridge referred to in ORS 367.370 (1) shall be operated as a toll-free bridge whenever the principal, interest and other charges incidental to the issuance, sale and retirement of all bonds issued under ORS 367.370 (1) and refunding bonds for the purpose of refunding outstanding bonds issued under ORS 367.370 (1) or such refunding bonds, have been fully paid, unless the State of Oregon and the State of Washington agree through their respective highway commissions to continue operation of the bridge as a toll bridge and to use the tolls to reimburse, in whole or in part, the State of Oregon and the State of Washington for funds advanced to pay such bond principal, interest and other incidental charges. [1961 c.345 s.4; 1981 c.660 s.50]

367.465 [1961 c.483 s.1; repealed by 1981 c.660 s.18]

367.470 [1961 c.483 s.2; repealed by 1981 c.660 s.18]

367.480 [1961 c.483 s.3; 1967 c.335 s.47]

367.485 [1961 c.483 s.4; repealed by 1981 c.660 s.18]

367.490 [1961 c.483 s.5; repealed by 1981 c.660 s.18]

367.495 [1961 c.483 s.6; 1975 c.462 s.11; repealed by 1981 c.660 s.18]

367.500 [1961 c.483 s.7; repealed by 1981 c.660 s.18]

367.505 [1961 c.483 s.8; repealed by 1981 c.660 s.18]

367.510 [1961 c.483 s.9; repealed by 1981 c.660 s.18]

367.520 [1961 c.483 s.10; repealed by 1981 c.660 s.18]

(Bond Act of 1973)

367.550 “Department” defined for ORS 367.550 to 367.600. As used in ORS 367.550 to 367.600, “department” means the Department of Transportation. [1973 c.698 s.1]

Note: 367.550 to 367.600 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 367 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

367.555 Authority to sell limited amount of bonds under ORS 367.550 to 367.600. In addition to the authority now vested by any other provision of law state highway bonds of the State of Oregon used to provide funds to defray the costs of location, relocation, improvement, construction and reconstruction of state highways and bridges may in the aggregate principal sum not exceed \$150 million. [1973 c.698 s.2; 1981 c.660 s.32]

Note: See note under 367.550.

367.560 Disposition and use of bond proceeds. All moneys obtained from the sale of bonds under ORS 367.550 to 367.600 shall immediately be paid over to the State Treasurer and credited by the State Treasurer to the State Highway Fund. Such moneys shall be used only for the purposes stated in ORS 367.550 to 367.600. Pending the use of such moneys for highway purposes they may be invested as provided by law. [1973 c.698 s.3]

Note: See note under 367.550.

367.565 Procedure for issuing bonds under ORS 367.550 to 367.600. All bonds issued under ORS 367.550 to 367.600 shall be issued in accordance with ORS 286.031 to 286.041. [1973 c.698 s.4; 1981 c.660 s.33]

Note: See note under 367.550.

367.570 [1973 c.698 s.5; repealed by 1981 c.660 s.18]

367.575 [1973 c.698 s.6; repealed by 1981 c.660 s.18]

367.580 [1973 c.698 s.7; repealed by 1981 c.660 s.18]

367.585 [1973 c.698 s.8; repealed by 1981 c.660 s.18]

367.590 [1973 c.698 s.9; repealed by 1981 c.660 s.18]

367.595 Setting aside sufficient moneys to pay maturing obligations. The Department of Transportation shall compute and determine in January of each year, after the sale of bonds under ORS 367.550 to 367.600, the amount of principal and interest which will fall due during such year on bonds then outstanding and unpaid and shall maintain or hold in the State Highway Fund sufficient moneys to pay such maturing obligations. [1973 c.698 s.10]

Note: See note under 367.550.

367.600 Constitutional debt limits not to be exceeded. No bonds shall be issued or sold under ORS 367.550 to 367.600 nor indebtedness incurred thereunder, which singly or in the aggregate with previous debts or liabilities incurred for the building and maintaining of permanent roads shall exceed any limitation provided in the Oregon Constitution at the date of the issuance and sale of such bonds. [1973 c.698 s.11]

Note: See note under 367.550.

HIGHWAY USER TAX BONDS

367.605 Source of funds to secure bonds. This section establishes the moneys available for use or pledge for purposes of issuing bonds under ORS 367.615 or 367.670. Such moneys are established as provided under the following:

(1) Except as provided in subsection (2) of this section, moneys, once deposited in the highway fund established under ORS 366.505, from all of the following sources are subject to the use or pledge described by this section:

- (a) Moneys credited to the highway fund under ORS 153.630.
- (b) Moneys from the tax on motor carriers imposed under ORS 825.474.
- (c) Moneys from the tax on motor vehicle fuel imposed under ORS 319.020.
- (d) Moneys from the tax on fuel used in motor vehicles imposed under ORS 319.530.
- (e) Moneys described under ORS 803.090 from the titling of vehicles.
- (f) Moneys described under ORS 803.420 from the registration of vehicles.
- (g) Moneys described under ORS 807.370 relating to the issuance of driver licenses and driver permits.

(2) Moneys described under subsection (1) of this section do not include any moneys described in the following:

- (a) Moneys provided for appropriations to counties under ORS 366.525 to 366.540.
- (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. [1985 c.551 s.2]

Note 1: The amendments to 367.605 by section 54, chapter 1060, Oregon Laws 1999, were referred to the people by referendum petition for their approval or rejection at the biennial primary election to be held throughout this state on May 16, 2000. If chapter 1060 is approved by the people, the amendments become operative March 1, 2001. See section 88, chapter 1060, Oregon Laws 1999, as amended by section 6, chapter 1075, Oregon Laws 1999, and section 112, chapter 1060, Oregon Laws 1999. The text that, if chapter 1060 is approved by the people, is operative from March 1, 2001, until January 1, 2006, is set forth for the user's convenience.

367.605. This section establishes the moneys available for use or pledge for purposes of issuing bonds under ORS 367.615 or 367.670. Such moneys are established as provided under the following:

(1) Except as provided in subsection (2) of this section, moneys, once deposited in the highway fund established under ORS 366.505, from all of the following sources are subject to the use or pledge described by this section:

- (a) Moneys credited to the highway fund under ORS 153.630.
- (b) Moneys from the tax on diesel fuel imposed under section 2, chapter 1060, Oregon Laws 1999.
- (c) Moneys from the tax on motor vehicle fuel imposed under ORS 319.020.
- (d) Moneys from the tax on fuel used in motor vehicles imposed under ORS 319.530.
- (e) Moneys described under ORS 803.090 from the titling of vehicles.
- (f) Moneys described under ORS 803.420 from the registration of vehicles.
- (g) Moneys described under ORS 807.370 relating to the issuance of driver licenses and driver permits.

(2) Moneys described under subsection (1) of this section do not include any moneys described in the following:

- (a) Moneys provided for appropriations to counties under ORS 366.525 to 366.540.
- (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.

Note 2: The amendments to 367.605 by section 11, chapter 1075, Oregon Laws 1999, are contingent upon approval of chapter 1060, Oregon Laws 1999, which was referred to the people by referendum petition for their approval or rejection at the biennial primary election to be held throughout this state on May 16, 2000. If chapter 1060 is approved by the people, the amendments become operative January 1, 2006. See section 1, chapter 1075, Oregon Laws 1999. The text that, if chapter 1060 is approved by the people, is operative on and after January 1, 2006, is set forth for the user's convenience.

367.605. This section establishes the moneys available for use or pledge for purposes of issuing bonds under ORS 367.615 or 367.670. Such moneys are established as provided under the following:

(1) Except as provided in subsection (2) of this section, moneys, once deposited in the highway fund established under ORS 366.505, from all of the following sources are subject to the use or pledge described by this section:

- (a) Moneys credited to the highway fund under ORS 153.630.
- (b) Moneys from the tax on motor carriers imposed under ORS 825.474.
- (c) Moneys from the tax on motor vehicle fuel imposed under ORS 319.020.
- (d) Moneys from the tax on fuel used in motor vehicles imposed under ORS 319.530.

- (e) Moneys described under ORS 803.090 from the titling of vehicles.
- (f) Moneys described under ORS 803.420 from the registration of vehicles.
- (g) Moneys described under ORS 807.370 relating to the issuance of driver licenses and driver permits.
- (2) Moneys described under subsection (1) of this section do not include any moneys described in the following:
 - (a) Moneys provided for appropriations to counties under ORS 366.525 to 366.540.
 - (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.

367.610 Use of available highway fund moneys to secure bonds. In addition to moneys described in ORS 367.605, other moneys in the highway fund available for state highway purposes may be used, but cannot be pledged, to pay principal and interest on the bonds issued under ORS 367.615. [1985 c.551 s.2a]

367.615 Authority for bond issuance; bonds not general obligation; conditions for issuance of additional bonds; use of bond proceeds. 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 department to issue and sell bonds and other similar obligations in a manner consistent with this section. The following apply to the authority granted by this section:

- (1) Any reference to bonds issued under this section includes a reference to bonds or other similar obligations.
- (2) The bonds may be referred to as Highway User Tax Bonds.
- (3) 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 payable from moneys described under ORS 367.605 and 367.610 and secured solely by moneys described under ORS 367.605. No holder of bonds or other similar obligations issued under this section shall have the right to compel the exercise of the ad valorem taxing power of the state to pay principal and interest on such bonds or other similar obligations.
- (4) 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 debt service charges and other amounts necessary to meet requirements established by indenture under ORS 367.640.
- (5) This state shall not in any way impair obligations of any agreement between this state and the holders of bonds issued under this section.
- (6) The authority granted by this section is continuing and the department reserves the right, through and with the prior approval of the State Treasurer, to issue additional bonds under this section subject to the following:
 - (a) Additional bonds shall be secured equally and ratably by the pledge and appropriation of moneys described under ORS 367.605 or secured separately by a portion of such moneys subject only to the pledge of a particular portion of such moneys to secure particular bonds issued under this section.
 - (b) Additional bonds shall only be issued if sufficient moneys described under ORS 367.605 may be pledged to pay the annual debt service for all outstanding bonds issued under this section as well as for the additional bonds.
- (7) Proceeds from the sale of bonds under this section are declared to be for the purpose of building and maintaining of permanent public roads and may be used as described under any of the following:
 - (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 367.655. [1985 c.551 s.3]

367.620 Limitation on bond amount. Bonds issued under ORS 367.615 shall not exceed in the aggregate a principal sum of \$138.4 million. [1985 c.551 s.4; 1999 c.1036 s.4]

Note: The amendments to 367.620 by section 107, chapter 1060, Oregon Laws 1999, were referred to the people by referendum petition for their approval or rejection at the biennial primary election to be held throughout this state on May 16, 2000. The amendments to 367.620 by section 4a, chapter 1036, Oregon Laws 1999, are contingent upon approval of chapter 1060, Oregon Laws 1999. If chapter 1060 is approved by the people, the amendments to 367.620 by section 4a, chapter 1036, Oregon Laws 1999, and by section 107, chapter 1060, Oregon Laws 1999, become operative September 1, 2000. See section 4a, chapter 1036, Oregon Laws 1999, and sections 109 and 112, chapter 1060, Oregon Laws 1999. The text that, if chapter 1060 is approved by the people, is operative on and after September 1, 2000, is set forth for the user's convenience.

367.620. (1) Except as provided in subsection (2) of this section, 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.

(2) During the period ending June 30, 2001, Highway User Tax Bonds may be issued under ORS 367.615 for the purposes described in ORS 367.625 in an aggregate principal amount sufficient to produce net proceeds of not more than \$600 million. The provisions of ORS 286.505 to 286.545 do not apply to bonds described in this subsection.

(3) In addition to any other bonds issued, during the period ending June 30, 2001, the Department of Transportation may issue revenue bonds under ORS 367.615 in the amount of \$58.4 million. The provisions of ORS 286.505 to 286.545 do not apply to bonds described in this subsection.

367.625 [1985 c.551 s.4a; repealed by 1999 c.1036 s.6]

Note: The amendments to 367.625 by section 108, chapter 1060, Oregon Laws 1999, were referred to the people by referendum petition for their approval or rejection at the biennial primary election to be held throughout this state on May 16, 2000. The repeal of section 6, chapter 1036, Oregon Laws 1999, which repealed 367.625 in 1999, by section 7, chapter 1036, Oregon Laws 1999, is contingent upon approval of chapter 1060, Oregon Laws 1999. If chapter 1060 is approved by the people, section 7, chapter 1036, Oregon Laws 1999, revives 367.625 and the amendments to 367.625 by section 108, chapter 1060, Oregon Laws 1999, become operative September 1, 2000. See sections 6 and 7, chapter 1036, Oregon Laws 1999, and sections 109 and 112, chapter 1060, Oregon Laws 1999. The text that, if chapter 1060 is approved by the people, is operative on and after September 1, 2000, is set forth for the user's convenience.

367.625. (1) Highway User Tax Bonds described in this section may be issued only to finance road and bridge modernization and safety projects, to fund bond reserves, to pay debt service on the bonds and to pay costs related to the bonds. For purposes of ORS 366.514, the revenues from bonds described in this section may not be considered funds received by the Department of Transportation from the State Highway Fund. The Department of Transportation shall develop a list of projects to be funded with revenues from bonds described in this section. All projects on the list shall first have been approved by the Oregon Transportation Commission for inclusion in the Statewide Transportation Improvement Program. The department shall give added consideration to projects that leverage local or private funds or that will generate toll revenues.

(2) The department shall present a report to the Emergency Board no later than February 1, 2000, that includes the list of projects described in subsection (1) of this section that have been approved by the Oregon Transportation Commission and a list of projects that were considered for inclusion in the list but were not included.

(3) Upon receipt of the report required by subsection (2) of this section, the Emergency Board may authorize expenditure of moneys necessary for issuance of the bonds described in this section.

(4) After the initial report, the department shall report to the Emergency Board at least quarterly, updating the status of the projects on the list. When the Legislative Assembly is meeting in regular session, the quarterly report shall be to the Joint Ways and Means Committee instead of to the Emergency Board.

(5) The department and the State Treasurer shall structure the Highway User Tax Bonds described in this section so that the principal and interest on the bonds can be paid from revenues that are estimated to be available under ORS 366.524 (3).

367.630 Highway revenue declaration; contents; purpose. (1) Before bonds are issued under ORS 367.615, the Department of Transportation must prepare a highway revenue declaration authorizing issuance of the bonds. The declaration must be signed by the Director of Transportation or a person designated by the director and must be approved by the State Treasurer or a person designated by the State Treasurer.

(2) A declaration prepared under this section may do any of the following:

(a) Pledge any part or all of moneys described under ORS 367.605 for purposes of the bonds to be issued.

(b) Limit the purpose for which the proceeds of the sale may be applied by the department.

(c) Make pledges concerning the proceeds of the sale or moneys described under ORS 367.605 as necessary to secure payment of bonds of the department.

(d) Limit the issuance of additional bonds under ORS 367.615, limit or establish terms upon which additional bonds may be issued under ORS 367.615 or limit or establish the issuance or the terms of issuance or provide for the refunding of outstanding bonds.

(e) Provide for procedures, if any, by which the terms of contracts with bondholders may be amended or rescinded, for the percentage of the bondholders that must consent to amendment or rescinding of such contract and for the manner of bondholder consent to any amendment or rescinding of such contract.

(f) Establish a trustee as described under ORS 367.650.

(g) Vest a trustee appointed under ORS 367.650 with property, rights, powers and duties in trust, as the State Treasurer determines appropriate. Authority granted by this paragraph includes authority to:

(A) Include the rights, powers and duties of a trustee appointed to bondholders.

(B) Limit the rights, powers and duties of the trustee.

(h) Provide for other matters affecting issuance of the bonds.

(3) A declaration under this section may establish the same requirements, be subject to the same provisions, create the same obligations and confer the same rights and is otherwise subject to the same provisions as an indenture under ORS 367.640, if so provided in the declaration. [1985 c.551 s.5; 1987 c.158 s.64]

367.635 Bond form; sale; price; maturity; provisions subject to determination of State Treasurer. This section establishes provisions relating to the sale of bonds under ORS 367.615, as follows:

(1) Each bond issued shall 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.

(2) The bonds may be sold at public competitive bid or at private negotiated sale.

(3) Bonds may be sold at the price or prices established by the State Treasurer, upon the advice of the Department of Transportation.

(4) No bonds issued shall mature at a time exceeding 30 years from the date of issuance. Subject to this subsection, the time bonds mature may be as established by indenture under ORS 367.640.

(5) The State Treasurer shall determine 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. Any determination made under this subsection shall be upon the advice of the department and shall be consistent with the provisions of ORS 288.805 to 288.945 relating to issuance of bonds by this state. [1985 c.551 s.6]

367.640 Indenture; provisions. An indenture under which bonds described under ORS 367.615 are issued may provide for any or all of the following:

(1) The pledging of moneys or a portion of moneys described under ORS 367.605 to the payment of the principal, interest or redemption premium, if any, on bonds issued under ORS 367.615.

(2) Requirements concerning particular issues of bonds under ORS 367.615.

(3) Requirements concerning moneys described under ORS 367.605 and 367.610 and payment on outstanding bonds issued under ORS 367.615.

(4) A contractual undertaking for the benefit of bondholders concerning assessment, levy collection and deposit of moneys described under ORS 367.605.

(5) Provisions concerning the registration of bonds or recording or filing of the indenture.

(6) Provisions relating to a reserve account under ORS 367.645. Provisions under this subsection may include, but are not limited to, the amount required for such account or provisions for replenishing the account from moneys described under ORS 367.605.

(7) Provisions concerning trustees under ORS 367.650, including but not limited to the following:

(a) Establishing funds, accounts or moneys described under ORS 367.605 over which the trustee will be custodian.

(b) Providing that a trustee will be appointed.

(8) Establish the maturation date for the bonds, subject to ORS 367.635. [1985 c.551 s.7]

367.645 Reserve account. The Department of Transportation may establish a separate reserve account to provide additional security for bonds issued under ORS 367.615. The following apply to any account established under this section:

(1) The account may be established as part of the highway fund or separately.

(2) The establishment of an account does not, in itself, limit the payment of debt service for bonds issued under ORS 367.615 to moneys in the account. Debt service for bonds issued under ORS 367.615 may be paid from any moneys under ORS 367.605 and 367.610, whether or not an account is established, unless otherwise provided by indenture under ORS 367.640.

(3) The account is subject to any provisions established by indenture under ORS 367.640 concerning the amount of money in the account or the replenishing of moneys if the account is drawn down at any time while bonds are outstanding.

(4) The account is subject to any other provisions concerning the account that are established by indenture under ORS 367.640. [1985 c.551 s.8; 1989 c.610 s.2]

367.650 Trust indenture to secure bonds; provisions. At the discretion of the State Treasurer, bonds issued under ORS 367.615 may be secured by a trust indenture. A trust indenture established under this section is subject to the following:

- (1) The trust indenture shall be by and between the state and a trustee.
 - (2) The trustee may be any trust company or bank having the powers of a trust company whether inside or outside the state.
 - (3) The trustee may act as custodian as provided for by indenture under ORS 367.640.
 - (4) The trustee must be jointly appointed by the director and the State Treasurer.
 - (5) The trustee shall be vested with such powers and duties as provided for by indenture under ORS 367.640.
- [1985 c.551 s.9]

367.655 Loan of bond proceeds to cities and counties; use of loans. (1) Notwithstanding any other provision of law or any provision of charter or local ordinance to the contrary:

- (a) The Department of Transportation may loan a portion of proceeds from bonds issued under ORS 367.615 to cities and counties; and
 - (b) Cities and counties may borrow moneys under this section.
- (2) Any loan made under this section is subject to all of the following provisions:
- (a) Moneys from the loan may only be used to defray costs of location, relocation, improvements, construction and reconstruction of city and county streets and roads.
 - (b) The department shall establish rules concerning the making of agreements for the loans. Repayment of principal and interest by any city or county shall be made according to the agreement between the department and the city or county that is made under the rules.
 - (c) If a city or county defaults of repayment, the department may withhold any part of the appropriation to the city under ORS 366.785 to 366.820 or the county under ORS 366.525 to 366.540 as provided for in the agreement for repayment made under this section. [1985 c.551 s.10]

367.660 Lien on certain moneys pledged for bonds; terms of lien. If moneys under ORS 367.605 are pledged for purposes of bonds by indenture under ORS 367.640 a lien is established upon the moneys. A lien established by this section is subject to all of the following:

- (1) The lien shall be a first lien and security interest and prior charge upon the pledged moneys.
- (2) The lien is valid and binding from the time the pledge is made.
- (3) The pledged moneys are immediately subject to the lien without physical delivery or further act.
- (4) The lien is valid and binding against all parties having claims on the money of any kind including claims under tort or contract.
- (5) The lien is valid and binding against all parties irrespective of whether the parties have notice of the lien.
- (6) No bond, indenture or any other instrument by which the pledge is made or the lien created must be recorded or filed except as provided by the indenture under ORS 367.640. [1985 c.551 s.11]

367.665 Interest on bonds exempt from state income tax. The interest upon all bonds issued under ORS 367.615 and upon all refunding and advance refunding bonds issued under ORS 367.670 is exempt from personal income taxation imposed by this state under ORS chapter 316. [1985 c.551 s.12]

367.670 Refunding bonds. Outstanding bonds issued under ORS 367.615 may be refunded by the issuance of refunding or advance refunding bonds. Refunding and advance refunding bonds issued under this section are subject to the provisions relating to bonds issued under ORS 367.615 and are subject to and shall be issued in accordance with the provisions of ORS 286.051 and 288.605 to 288.695. [1985 c.551 s.13]

BONDED INDEBTEDNESS FOR CITY AND COUNTY ROADS AND RECREATION FACILITIES

367.700 Authority to sell limited amount of bonds under ORS 367.700 to 367.750. In addition to the authority now vested by any other provision of law state highway bonds of the State of Oregon used to provide funds for purposes of ORS 367.700 to 367.750 in the aggregate principal sum may not exceed \$50 million. [1975 c.211 s.1; 1981 c.660 s.34]

Note: 367.700 to 367.750 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 367 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

367.705 Use of funds; priority. (1) Funds available under ORS 367.700 to 367.750 shall be made available by the Department of Transportation to cities and counties to be advanced to defray costs of location, relocation, improvements, construction and reconstruction of city and county streets and roads and of acquisition, development, maintenance and care of public park and recreation facilities.

(2) If funds available under ORS 367.700 to 367.750 are not sufficient to fund all projects for which funds are applied by cities and counties, the department shall give priority to projects in cities and counties having the highest rates of unemployment in this state. [1975 c.211 s.2]

Note: See note under 367.700.

367.710 Repayment by city or county; interest. (1) Repayment of principal and interest by the cities and counties who receive funds under ORS 367.705 shall be made by withholding from payments due to the city or county under ORS 366.525 to 366.540. Funds withheld under this subsection remain in the State Highway Fund available for the purposes authorized by law.

(2) The Department of Transportation shall fix the rate of interest to be charged on any advance made under ORS 367.705. [1975 c.211 s.3]

Note: See note under 367.700.

367.715 Procedure for issuing bonds under ORS 367.700 to 367.750. All bonds issued under ORS 367.700 to 367.750 shall be issued in accordance with ORS 286.031 to 286.041. [1975 c.211 s.4; 1981 c.660 s.35]

Note: See note under 367.700.

367.720 [1975 c.211 s.5; repealed by 1981 c.660 s.18]

367.725 [1975 c.211 s.6; repealed by 1981 c.660 s.18]

367.730 [1975 c.211 s.7; repealed by 1981 c.660 s.18]

367.735 [1975 c.211 s.8; repealed by 1981 c.660 s.18]

367.740 [1975 c.211 s.9; repealed by 1981 c.660 s.18]

367.745 Setting aside sufficient moneys to pay maturing bonds. The department shall compute and determine in January of each year, after the sale of bonds under ORS 367.550 to 367.600, the amount of principal and interest which will fall due during such year on bonds then outstanding and unpaid and shall maintain or hold in the State Highway Fund sufficient moneys to pay such maturing obligations. [1975 c.211 s.10]

Note: See note under 367.700.

367.750 Constitutional debt limits not to be exceeded. No bonds shall be issued or sold under ORS 367.700 to 367.750 nor indebtedness incurred thereunder, which singly or in the aggregate with previous debts or liabilities incurred for the building and maintaining of permanent roads shall exceed any limitation provided in the Oregon Constitution at the date of the issuance and sale of such bonds. [1975 c.211 s.11]

Note: See note under 367.700.
