

Chapter 286A

2007 EDITION

State Borrowing

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PUBLIC BORROWING

Note: Sections 233 to 237, chapter 783, Oregon Laws 2007, provide:

Sec. 233. Unless an election is made under section 236 of this 2007 Act:

(1) Sections 2 to 11, 15 to 26, 31 and 33 of this 2007 Act and the amendments to ORS 286.555, 286.605, 286.615, 286.645, 286.560, 286.563, 286.566, 286.580, 286.585, 286.750, 286.762, 286.782, 286.768, 293.175, 293.177 and 328.346 by sections 13, 14, 27 to 29, 32, 35 to 40 and 110 to 112 of this 2007 Act apply to bonds approved for issuance by the State Treasurer on or after the effective date of this 2007 Act [January 1, 2008].

(2) Sections 42 to 59 and 64 to 70 of this 2007 Act and the amendments to ORS 287.030, 287.032, 287.034 and 287.040 by sections 60 to 63 of this 2007 Act apply to bonds approved for issuance by the governing body of a public body on or after the effective date of this 2007 Act.

(3) The amendments to statutes by sections 71 to 232e of this 2007 Act apply to bonds approved for issuance by the State Treasurer or the governing body of a public body, as appropriate, on or after the effective date of this 2007 Act. [2007 c.783 §233]

Sec. 234. (1) ORS 223.905, 223.910, 223.915, 223.920, 223.925, 285B.347, 286.010, 286.020, 286.031, 286.033, 286.036, 286.038, 286.041, 286.051, 286.056, 286.058, 286.061, 286.066, 286.071, 286.078, 286.105, 286.115, 286.125, 286.135, 286.145, 286.505, 286.507, 286.515, 286.525, 286.535, 286.545, 286.635, 286.700, 286.705, 286.710, 286.715, 286.720, 286.770, 286.790, 287.001, 287.003, 287.004, 287.006, 287.007, 287.008, 287.012, 287.014, 287.016, 287.018, 287.020, 287.022, 287.025, 287.028, 287.029, 287.033, 287.036, 287.038, 287.042, 287.045, 287.049, 287.052, 287.053, 287.054, 287.055, 287.056, 287.058, 287.062, 287.064, 287.066, 287.069, 287.070, 287.072, 287.074, 287.075, 287.140, 287.142, 287.144, 287.146, 287.202, 287.204, 287.206, 287.208, 287.210, 287.212, 287.214, 287.216, 287.218, 287.220, 287.252, 287.254, 287.256, 287.258, 287.260, 287.262, 287.264, 288.010, 288.020, 288.030, 288.040, 288.050, 288.060, 288.070, 288.090, 288.100, 288.110, 288.120, 288.150, 288.155, 288.160, 288.162, 288.165, 288.410, 288.420, 288.430, 288.435, 288.440, 288.450, 288.460, 288.500, 288.505, 288.513, 288.515, 288.517, 288.518, 288.520, 288.523, 288.525, 288.530, 288.535, 288.540, 288.545, 288.550, 288.560, 288.570, 288.580, 288.590, 288.592, 288.594, 288.596, 288.598, 288.600, 288.605, 288.610, 288.615, 288.620, 288.625, 288.630, 288.635, 288.637, 288.640, 288.645, 288.650, 288.655, 288.660, 288.665, 288.670, 288.675, 288.677, 288.680, 288.685, 288.690, 288.695, 288.805, 288.815, 288.825, 288.835, 288.845, 288.855, 288.865, 288.875, 288.885, 288.895, 288.915, 288.925, 288.935, 288.945, 288.950, 293.173, 293.292, 328.235, 358.395, 358.400, 367.670, 450.935 and 456.650 are repealed.

(2) Notwithstanding section 17, chapter 895, Oregon Laws 2007 (amending ORS 288.805), if Senate Bill 812 becomes law, ORS 288.805 is repealed. [2007 c.783 §234]

Sec. 235. Nothing in the repeal of statutes by section 234 of this 2007 Act affects any issue of bonds that occurred prior to the effective date of this 2007 Act [January 1, 2008]. [2007 c.783 §235]

Sec. 236. (1) Notwithstanding section 233 of this 2007 Act and the repeal of statutes by section 234 of this 2007 Act, or any other provision of law, the State Treasurer or any public body as defined in section 42 of this 2007 Act [287A.001] may elect, pursuant to rules adopted by the State Treasurer, to authorize or issue bonds under the laws of this state in effect on the day before the effective date of this 2007 Act [January 1, 2008].

(2) The State Treasurer shall by rule prescribe how and when an election may be made under this section. [2007 c.783 §236]

Sec. 237. Section 236 of this 2007 Act is repealed January 2, 2010. [2007 c.783 §237]

DEFINITIONS

286A.001 Definitions for ORS chapter 286A. As used in this chapter:

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

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

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

(2) “Bond”:

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

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

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

(4) “Credit enhancement device”:

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

(b) Does not mean a bond.

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

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

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

(8) “Related agency” means the state agency that requests the State Treasurer to issue bonds pursuant to ORS 286A.025 or for which the State Treasurer has issued bonds.

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

(10) “Revenue” means all fees, tolls, excise taxes, assessments, property taxes and

other taxes, rates, charges, rentals and other income or receipts derived by a state agency or to which a state agency is entitled.

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

(12) "State agency":

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

(b) Does not include:

(A) A statewide elected judge;

(B) The State Treasurer;

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

(D) The Oregon Health and Science University;

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

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

(13) "Termination payment" means the amount payable under an agreement for exchange of interest rates by one party to another party as a result of the termination, in whole or part, of the agreement prior to the expiration of the stated term. [2007 c.783 §2]

Note: 182.451 was repealed by section 58, chapter 71, Oregon Laws 2007. The text of 286A.001 was not amended by enactment of the Legislative Assembly to reflect the repeal. Editorial adjustment of 286A.001 for the repeal of 182.451 has not been made.

DUTIES OF STATE TREASURER

286A.005 Authority of State Treasurer to issue bonds. (1) The State Treasurer shall issue and sign bonds of the State of Oregon. The State Treasurer may sign a bond by manual or facsimile signature.

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

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

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

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

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

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

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

(6) The State Treasurer may adopt rules providing for the procedural or administrative requirements for the issuance of obligations, as defined in ORS 286A.100. [2007 c.783 §3]

286A.010 Information required by State Treasurer. A related agency shall, at the direction of the State Treasurer, provide the State Treasurer with:

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

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

(a) Administer the bonds; and

(b) Comply with federal and state securities law and bond covenants. [2007 c.783 §4]

286A.014 Fees and expenses of State Treasurer; rules. (1) The State Treasurer may charge a related agency for reasonable fees and expenses in connection with the services, duties and activities of the State Treasurer related to the borrowing activities of the State of Oregon, including but not limited to the issuance and administration of obligations, as defined in ORS 286A.100.

(2) The State Treasurer may charge a public body, as defined in ORS 287A.001, reasonable fees and expenses in connection with:

(a) The services, duties and activities of the State Treasurer related to obligations, as defined in ORS 287A.310, of the public body; or

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

(3) The State Treasurer shall deposit all moneys received under this section in the Miscellaneous Receipts Account established under ORS 286A.016.

(4) The State Treasurer shall adopt rules to implement the provisions of this section including, but not limited to, rules identify-

ing the services, duties and activities for which charges are to apply.

(5) A related agency or public body shall pay to the State Treasurer reasonable fees and expenses charged under this section or under rules adopted pursuant to this section. [2007 c.783 §5]

286A.015 Payment of expenses of State Treasurer. Moneys received under ORS 286A.014 are continuously appropriated to the State Treasurer for the payment of expenses of the State Treasurer in connection with bonds of the State of Oregon or a public body as defined in ORS 287A.001. [2007 c.783 §6]

Note: 286A.015 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 286A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

286A.016 Disposition of charges. All moneys received under ORS 286A.014 and 287A.634 shall be deposited in the Miscellaneous Receipts Account established in the General Fund for the State Treasurer. The State Treasurer may use moneys in the account for payment of expenses of the State Treasurer in connection with bonds of the State of Oregon or a public body as defined in ORS 287A.001. [Formerly 286.025]

AUTHORITY FOR BORROWING

286A.025 Issuance and sale of bonds.

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

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

(b) Issue refunding bonds without additional authorization.

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

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

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

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

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

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

(f) Structure, market and issue bonds in the manner that the State Treasurer deter-

mines is in the best interest of the people of the State of Oregon; and

(g) Invest moneys held in connection with or derived from obligations, as defined in ORS 286A.100, without regard to the fund or account to which the moneys are credited under other provisions of law, alone or with other invested moneys. In addition, the State Treasurer may:

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

(B) Segregate or pool moneys in order to promote financial and administrative efficiency and prudence in the management of moneys derived from obligations, as defined in ORS 286A.100, moneys available for bond repayment and other moneys, and in the administration of bond programs.

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

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

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

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

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

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

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

(b) Are intended to:

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

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

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

(7) In consultation with the related agency, the State Treasurer shall select the underwriters for the sale of the bonds requested by the related agency. An agreement with the underwriters may be executed by the State Treasurer alone or with the related agency. An agreement with underwriters is not subject to the Public Contracting Code. [2007 c.783 §7]

286A.035 Bond budget authorization.

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

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

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

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

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

(4) The Legislative Assembly shall determine the amount of bonds the State Treasurer may issue for each state agency for a biennium. If the Legislative Assembly fails to make the determination described in this

subsection by the first day of the biennium, the unused portion of the authorization the Legislative Assembly made for the preceding biennium is deemed to carry forward for the current biennium at the amount authorized for the preceding biennium until the earlier of:

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

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

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

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

(b) Assigned a maximum amount to each category.

(6) This section applies to bonds:

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

(b) Except refunding bonds. [2007 c.783 §9]

286A.045 Borrowing for current expenses.

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

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

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

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

Revenue Officer before issuing bonds under this section.

(b) The State Treasurer may pledge:

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

(B) The full faith and credit of the State of Oregon to pay bonds issued under this section if the bonds are payable from the Short Term Borrowing Account established under ORS 286A.050 and the bonds mature not later than the end of the biennium in which the bonds are issued.

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

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

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

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

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

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

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

(5) ORS 286A.035 does not apply to bonds authorized by this section.

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

(7) This section and ORS 286A.050 constitute complete authorization by the Legislative Assembly for the use and expenditure of the proceeds of the bonds and the revenues pledged to pay those bonds for the purposes described in subsection (3)(c) of this section. Additional appropriation or authorization is not necessary. The authorization contained in this section and ORS 286A.050 to spend moneys for the purposes described in subsection (3)(c) of this section does not constitute an appropriation for purposes of ORS 291.357.

(8) The proceeds of bonds issued by the State Treasurer under this section do not

constitute revenues received by the General Fund for purposes of section 14, Article IX of the Oregon Constitution, and ORS 291.349.

(9) The State Treasurer may perform the duties and exercise the powers of a related agency under this section. [2007 c.783 §11]

286A.050 Short Term Borrowing Account; sources; uses. (1) The Short Term Borrowing Account is created in the General Fund.

(2) The State Treasurer shall credit the proceeds of bonds issued by the State Treasurer under ORS 286A.045 to the Short Term Borrowing Account. The State Treasurer shall, in addition, transfer to the Short Term Borrowing Account any amounts that are pledged to pay bonds issued by the State Treasurer under ORS 286A.045 and that are required to pay those bonds.

(3) Amounts in the Short Term Borrowing Account are continuously appropriated to the respective state agencies for which the revenues that are pledged to pay the bonds were appropriated, for the purposes described in ORS 286A.045 (3)(c). Amounts appropriated under this subsection may not be taken into account in preparing budget estimates, plans or reports required to be prepared under ORS 291.201 to 291.222. [Formerly 293.175]

286A.055 Report by State Treasurer on amount of bonds issued, amounts repaid, costs and interest earned. Within 90 days following the end of a biennium, the State Treasurer shall report in writing to the Legislative Fiscal Officer and the Legislative Revenue Officer on the amount of bonds issued by the State Treasurer under ORS 286A.045, the amount spent in repayment of those bonds, the issuance costs and interest costs of those bonds and the interest revenues earned by the proceeds of those bonds. [Formerly 293.177]

286A.095 Compliance with constitutional or statutory debt limit. (1) When calculating compliance with a constitutional or statutory debt limit:

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

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

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

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

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

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

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

(a) The state has set aside in an irrevocable escrow government obligations, as defined in ORS 287A.375, the receipts from which have been calculated by a certified public accountant or other experienced professional to be sufficient, without reinvestment, to pay the principal, interest and premium, if any, due on the bond at maturity or on prior redemption; or

(b) The state has complied with the provisions in the documents authorizing the bond that provide for the payment or defeasance of the bond. [2007 c.783 §15]

ADMINISTRATION OF BOND PROGRAMS

286A.100 Definitions for ORS 286A.100 and 286A.102. As used in this section and ORS 286A.102:

(1) "Obligation" means:

(a) A bond;

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

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

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

(3) "Pledge" means:

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

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

(4) "Pledgee" means:

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

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

consequent to the pledge in lieu of the trustee.

(5) "Property" means:

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

(b) Revenues, contract rights, receivables or securities. [2007 c.783 §17]

286A.102 Lien of a pledge; Uniform Commercial Code. (1) The Uniform Commercial Code does not apply to the creation, perfection, priority or enforcement of a lien of a pledge made by a state agency or the State Treasurer.

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

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

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

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

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

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

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

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

ment creating the subsequent pledge. The lien of the subsequent pledge:

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

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

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

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

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

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

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

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

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

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

(A) Historical operating expenses;

(B) Projected future operating expenses;

(C) The funding of depreciation;

(D) The costs of capital improvements;

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

(F) The costs of complying with regulatory requirements;

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

(H) Debt service on the obligations; and

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

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

(12) The State Treasurer, or a related agency with the approval of the State Treasurer, may pledge the full faith and credit of the State of Oregon as security for the payment of general obligation bonds. A pledge of the full faith and credit authorized by this subsection does not, by itself, create a lien on the revenues or property of the state. [2007 c.783 §18]

286A.110 Agreements for exchange of interest rates. (1) A related agency with the approval of the State Treasurer, or the State Treasurer on behalf of a related agency, may enter into agreements for exchange of interest rates with counterparties. Agreements for exchange of interest rates may be made to manage payment, interest rate, spread or similar exposure undertaken in connection with a related bond upon a determination by the related agency, or by the State Treasurer on behalf of the related agency, that the agreement benefits the State of Oregon.

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

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

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

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

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

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

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

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

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

(b) Fund the reserves with moneys derived from the issuance and sale of bonds or from revenues or other moneys described in subsection (2)(b) of this section. [2007 c.783 §10]

286A.120 Credit enhancement devices.

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

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

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

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

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

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

(2) The related agency, with the approval of the State Treasurer, or the State Treasurer may pledge as security for the obligations of the State of Oregon arising under

or with respect to a credit enhancement device all or a portion of revenues pledged to the payment of the bonds related to the credit enhancement device.

(3) The State Treasurer may issue a bond to the provider of a credit enhancement device to secure the obligations of the State of Oregon to pay amounts due to the provider. [2007 c.783 §8]

286A.130 Bond counsel services; financial advisory services; Public Contracting Code.

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

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

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

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

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

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

(d) Preparing or assisting in the preparation of documents related to a specific issue of bonds, including but not limited to an authorizing resolution or declaration, a trust indenture, a prospectus, a preliminary offi-

cial statement, an official statement, a bond sale notice, a bond form, a bid form, a bond purchase agreement, an agreement for exchange of interest rates, a credit enhancement device or a similar document necessary or desirable to sell bonds;

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

(f) Advising a state agency or the State Treasurer concerning accounting, investment or administrative procedures recommended or required for compliance with federal or state securities or tax or rebate requirements relating to bonds that were issued for the agency or that the agency expects to issue; and

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

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

(B) The marketing of the bonds;

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

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

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

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

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

this section and may use bond proceeds to pay those expenses.

(7) The Public Contracting Code does not apply to agreements entered into under this section. [2007 c.783 §20]

286A.132 Debt-related advisory services. (1) In addition to authority conferred by law other than this section, the State Treasurer or, with the approval of the State Treasurer, a related agency may enter into an agreement with and retain the services of one or more:

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

(b) Providers of banking services;

(c) Escrow agents;

(d) Providers of fiscal or paying agent services;

(e) Collateral custodians;

(f) Providers of investment contracts;

(g) Remarketing agents; or

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

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

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

(4) When the Oregon Constitution or a law of this state authorizes bond proceeds to be spent for a particular purpose, the authorization also includes authorization to spend bond proceeds for bond counsel, attorney, consultant, fiscal or paying agent, trustee or other professional fees and other expenses incurred by the related agency or the State Treasurer to authorize, issue, administer and repay the bonds, including fees payable to the State Treasurer. [2007 c.783 §21]

286A.140 State taxation of bond interest. Interest on all bonds of the State of Oregon is exempt from personal income tax under ORS chapter 316. [2007 c.783 §22]

286A.145 Federal taxation of bond interest; rules. The State Treasurer or a related agency may enter into covenants for the benefit of owners of bonds that are intended to allow the bonds to bear interest that is excludable from gross income under the federal Internal Revenue Code or that is otherwise exempt from taxation by the

United States. The State Treasurer or a related agency may adopt rules or procedures that are intended to facilitate compliance with those covenants, and may take any action that is required to comply with those covenants. Covenants authorized by this section include, but are not limited to, covenants to:

(1) Pay any rebates of earnings or penalties to the United States;

(2) Invest proceeds alone or in combination with other moneys in investments that have different maturities, yields or credit qualities than the state would acquire under the investment standards specified in ORS 293.721 and 293.726 and other similar laws, but only if those investments facilitate compliance with covenants described in this section; or

(3) Restrict the expenditure of bond proceeds or restrict the operation of, or otherwise limit the use of, facilities that are financed with bonds. [2007 c.783 §23]

286A.160 Exception to expenditure limits for repaying obligations; administrative limits; reports. (1) Notwithstanding any law limiting expenditures of a state agency, for the purpose of repaying obligations of the state to obtain savings in total or periodic debt service payments, a law limiting expenditures does not apply to payments approved by the State Treasurer for administrative expenses, debt service or financing costs that are necessary or appropriate for the retirement or refunding of bonds unless the law limiting expenditures creates a specific exception to this section.

(2) The Oregon Department of Administrative Services may establish administrative limitations on the payment and recording of expenditures made pursuant to subsection (1) of this section.

(3) The Oregon Department of Administrative Services shall report incurred expenses and debt service savings resulting from actions taken under subsection (1) of this section that affect administrative expenses, debt service or financing costs paid with moneys out of the General Fund or lottery funds, within 90 days of taking action, to the Joint Committee on Ways and Means if the Legislative Assembly is in session or to the Emergency Board during the interim between legislative sessions. [Formerly 286.063]

286A.185 Cancellation, purchase or redemption of bonds; lost or destroyed evidence of bonds; rules. (1) The State Treasurer may adopt rules, or establish by contract or policy, procedures and requirements for the cancellation, purchase or redemption of bonds, the remittance of funds to pay bonds, or the replacement of lost or

destroyed evidence of bonds or interest coupons.

(2) If the State Treasurer decides:

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

(b) Not to replace or make payment with respect to a lost or destroyed bond or coupon, the person seeking replacement or payment under this section may appeal the determination as a review of an order other than a contested case under ORS 183.484. [2007 c.783 §24]

286A.190 Disclosure of bond ownership. The records of bond ownership are not public records for purposes of ORS 192.410 to 192.505 or other law governing the disclosure of information. [2007 c.783 §25]

286A.195 Financial audit of bond programs. (1) The Secretary of State shall conduct a financial audit of the bond programs of each state agency at least annually. The Secretary of State shall publish the audit as soon as possible following the end of the audit period.

(2) The Oregon Department of Administrative Services may, on an annual basis, exempt a bond program from the requirements of subsection (1) of this section. [2007 c.783 §26]

286A.250 State Debt Policy Advisory Commission; membership; compensation; quorum; meetings; personnel. (1) There is established a State Debt Policy Advisory Commission, consisting of five members.

(2) The State Treasurer and the Director of the Oregon Department of Administrative Services shall serve as ex officio members of the commission. One member of the commission shall be a member of the Senate appointed by the President of the Senate. One member of the commission shall be a member of the House of Representatives appointed by the Speaker of the House. One member of the commission shall be a public member, knowledgeable on matters of public finance, appointed by the Governor from among those persons recommended by the State Treasurer.

(3) The term of an appointed member is two years, but an appointed member serves at the pleasure of the appointing authority. Before the expiration of the term of an ap-

pointed member, the appointing authority shall appoint a successor. If there is a vacancy for any reason in the office of an appointed member, the appointing authority shall make an appointment to become immediately effective for the unexpired term.

(4) A member of the commission is entitled to compensation and expenses as provided in ORS 292.495.

(5) The State Treasurer shall serve as chairperson of the commission, with such duties and powers necessary for the performance of that office as the commission determines appropriate.

(6) A majority of the members of the commission constitutes a quorum for the transaction of business.

(7) The commission shall meet at least once every six months at a place and time determined by the commission. The commission also shall meet at other times and places specified by the call of the chairperson or of a majority of the members of the commission.

(8) The office of the State Treasurer shall provide the commission with office space and clerical and other administrative support. [Formerly 286.550]

Note: 286A.250 and 286A.255 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 286A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

286A.255 Functions and duties of commission. The State Debt Policy Advisory Commission shall advise the Governor and the Legislative Assembly regarding policies and actions that enhance and preserve the state's credit rating and maintain the future availability of low-cost capital financing. In carrying out this function, the commission shall at least annually prepare a report showing the consolidated bond profile of this state. The report must include:

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

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

(3) A calculation of the state's net remaining borrowing capacity by repayment source. [Formerly 286.555]

Note: See note under 286A.250.

LOTTERY BONDS

286A.560 Definitions for ORS 286A.560 to 286A.585 and 327.700 to 327.711. As used in ORS 286A.560 to 286A.585 and 327.700 to 327.711, unless the context requires otherwise:

(1) "Appropriated funds" for a particular fiscal year means any moneys, other than unobligated net lottery proceeds, that are specifically appropriated or otherwise specifically made available by the Legislative Assembly or the Emergency Board for a fiscal year to replenish reserves established as additional security for lottery bonds pursuant to the authority granted in ORS 286A.580 (6).

(2) "Bond-related costs" means:

(a) The costs and expenses of issuing, administering and maintaining lottery bonds and the lottery bond program, including but not limited to paying or redeeming lottery bonds, paying amounts due in connection with credit enhancements or any instruments authorized by ORS 286A.580 (6) and paying the administrative costs and expenses of the State Treasurer and the Oregon Department of Administrative Services, including costs of consultants or advisors retained by the State Treasurer or the Oregon Department of Administrative Services for the lottery bonds or the lottery bond program;

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

(c) Capitalized interest for lottery bonds;

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

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

(3) "Lottery bonds" means:

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

(b) Any other bonds payable from the revenues of the Oregon State Lottery unless the legislation authorizing those bonds expressly provides that those bonds may not be issued under ORS 286A.560 to 286A.585; and

(c) Any refunding lottery bonds.

(4) "Lottery Bond Administrative Fund" means the fund created by ORS 286A.573.

(5) "Lottery Bond Fund" means the fund created by ORS 286A.570.

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

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

(b) Any other Act of the Legislative Assembly authorizing the issuance of bonds

that are payable from the revenues of the Oregon State Lottery, unless the legislation authorizing those bonds expressly provides that those bonds may not be issued under ORS 286A.560 to 286A.585.

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

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

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

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

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

(9) "Westside lottery bonds" means the bonds issued by this state under the authority granted in ORS 391.140 that, notwithstanding ORS 267.334, 285B.419, 285B.422, 285B.482, 285B.530 to 285B.548, 286A.560 to 286A.585, 327.700 to 327.711 and 390.060 to 390.067, shall have a claim on lottery funds that is superior to the claim of the lottery bonds authorized by ORS 286A.560 to 286A.585. [Formerly 286.560]

286A.563 Purposes; nature of lottery bonds. (1) The Legislative Assembly declares that the purpose of ORS 286A.560 to 286A.585 is to combine previously enacted legislation authorizing lottery bonds into a single Act that provides uniform administrative procedures for all lottery bonds issued by the State of Oregon.

(2) The lottery bonds issued under ORS 286A.560 to 286A.585 shall be special obligations of the State of Oregon that are payable solely from unobligated net lottery proceeds, amounts available in the Lottery Bond Fund and in any reserve accounts established for lottery bonds under ORS 286A.560 to 286A.585 and any appropriated funds. The faith and credit of the State of Oregon or any of its taxing power shall not be pledged or committed to the payment of lottery bonds or any other commitment of the State of Oregon authorized by ORS 286A.560 to 286A.585. [Formerly 286.563]

286A.566 Requirements for legislation authorizing lottery bonds. (1) Any legislation authorizing issuance of lottery bonds under ORS 286A.560 to 286A.585 shall:

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

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

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

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

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

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

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

(b) The agencies or other entities receiving proceeds of lottery bonds shall, if so directed by the Oregon Department of Administrative Services, take any action specified by the Oregon Department of Administrative Services that is necessary to maintain the excludability of lottery bond interest from gross income under the Internal Revenue Code. [Formerly 286.566]

286A.570 Lottery Bond Fund; purposes. (1) The Lottery Bond Fund is established in the State Treasury, separate and distinct from the General Fund. The amounts of unobligated net lottery proceeds described in ORS 286A.576 (2)(a) and (b) and any appropriated funds and investment earnings of the Lottery Bond Fund shall be credited to the Lottery Bond Fund. The State Treasurer may establish reserves for lottery bonds as provided in ORS 286A.580 (6). The reserves shall be credited to such account in the Lottery Bond Fund as the State Treasurer may designate.

(2) The amounts credited to the Lottery Bond Fund are continuously appropriated only for the purpose of paying, when due, the principal of and the interest and premium, if any, on outstanding lottery bonds, funding lottery bond reserves and paying amounts due in connection with any instrument authorized by ORS 286A.580 (6).

(3) The moneys in the Lottery Bond Fund shall be used and applied solely to pay, when due, the principal of and the interest and premium, if any, on any lottery bonds, to fund reserves and to pay amounts due under

instruments authorized by ORS 286A.580 (6). [Formerly 286.570]

Note: Section 9, chapter 44, Oregon Laws 1999, provides:

Sec. 9. (1) The State Treasurer shall merge into the Lottery Bond Fund the lottery bond funds authorized by ORS 285B.530 to 285B.548, 327.700 to 327.711 and 390.060 to 390.067.

(2) The State Treasurer shall merge into the Lottery Bond Administrative Fund the lottery bond administrative funds authorized by ORS 285B.530 to 285B.548, 327.700 to 327.711 and 390.060 to 390.067.

(3) The State Treasurer may merge into a single reserve account the reserve accounts created for lottery bonds authorized by ORS 285B.530 to 285B.548, 327.700 to 327.711 and 390.060 to 390.067. [1999 c.44 §9]

286A.573 Lottery Bond Administrative Fund; purposes. The Lottery Bond Administrative Fund is established in the State Treasury, separate and distinct from the General Fund. The amounts of unobligated net lottery proceeds specified in ORS 286A.576 (2)(c), the proceeds of any lottery bonds issued to pay bond-related costs and the investment earnings on amounts in the Lottery Bond Administrative Fund shall be credited to the Lottery Bond Administrative Fund. All moneys credited from time to time to the Lottery Bond Administrative Fund, including any investment earnings thereon, are appropriated continuously to the Oregon Department of Administrative Services only for payment of bond-related costs. Amounts in the Lottery Bond Administrative Fund shall be disbursed upon the written request of the Director of the Oregon Department of Administrative Services. [Formerly 286.573]

286A.576 Allocation of lottery moneys for lottery bonds; priorities. (1) Subject only to the availability of unobligated net lottery proceeds, in each fiscal year in which lottery bonds are outstanding, there shall be allocated from the Administrative Services Economic Development Fund created by ORS 461.540 or, if unobligated net lottery proceeds in that fund are insufficient, from any other fund or account of this state that contains unobligated net lottery proceeds, an amount of unobligated net lottery proceeds that is sufficient:

(a) To pay all lottery bond principal, interest and premium, if any, that is scheduled to be paid in that fiscal year;

(b) To restore the balance in any reserve account for lottery bonds to the level the state has covenanted to maintain in the account under ORS 286A.580 (6), including any amounts due under an instrument authorized by ORS 286A.580 (6); and

(c) To pay bond-related costs that will be due in that fiscal year.

(2) The amounts of unobligated net lottery proceeds allocated pursuant to subsection (1) of this section shall be transferred to

the following funds and accounts in the following order of priority:

(a) First, there shall be transferred to the Lottery Bond Fund an amount of unobligated net lottery proceeds that, when added to any amounts credited to the Lottery Bond Fund that are available for such purpose, will be sufficient to pay all amounts of lottery bond principal, interest and premium scheduled to be paid in that fiscal year;

(b) Second, if the balances in any reserve accounts for lottery bonds are less than the amounts the state has covenanted to maintain in those reserve accounts, there shall be transferred to the Lottery Bond Fund for credit to those reserve accounts amounts of unobligated net lottery proceeds sufficient to restore the balances in those reserve accounts to the levels the state has covenanted to maintain; and

(c) Third, any remaining amount shall be transferred to the Lottery Bond Administrative Fund.

(3) Notwithstanding any other provision of law, in accordance with section 4 (4), Article XV of the Oregon Constitution, the annual allocations of unobligated net lottery proceeds made by this section and the transfers of unobligated net lottery proceeds required to be made by this section shall be satisfied and credited from the first unobligated net lottery proceeds received by this state before any other allocation, appropriation or disbursement of the earnings of the unobligated net lottery proceeds is made in such fiscal year.

(4) The percentages of revenues of the Oregon State Lottery that are dedicated for particular purposes under section 4 (4), Article XV of the Oregon Constitution, shall be calculated without deducting from the total lottery revenues the amount of unobligated net lottery proceeds that are required to pay lottery bonds.

(5) If there are not sufficient revenues of the Oregon State Lottery to pay lottery bonds and to satisfy the percentage dedications set forth in the Oregon Constitution, the State Treasurer shall, before issuing any series of lottery bonds, cause a projection of unobligated net lottery proceeds and lottery bond debt service to be prepared. The State Treasurer shall not issue a series of lottery bonds if the projection indicates that there will not be sufficient proceeds of the Oregon State Lottery to satisfy the percentage dedications of section 4 (4), Article XV of the Oregon Constitution, and to leave unobligated net lottery proceeds in amounts at least equal to the debt service on all lottery bonds, including the series proposed to be issued. However, if at some time in the future a conflict arises because of a decline in re-

venues of the Oregon State Lottery, unobligated net lottery proceeds shall be allocated and applied first to pay lottery bonds, and the remaining net revenues of the Oregon State Lottery shall be divided pro rata among the constitutionally dedicated uses.

(6) Notwithstanding any other provision of law, when the Legislative Assembly enacts laws granting pledges, making dedications or making appropriations of net proceeds of the Oregon State Lottery for purposes other than payment of lottery bonds, all such pledges, dedications and appropriations, whenever granted or made, shall be subordinate to the pledges and dedications of unobligated net lottery proceeds for lottery bonds. [Formerly 286.576]

286A.578 Litigation challenging legality of Oregon State Lottery. (1) Lottery bonds may be issued pursuant to ORS 286A.580 without regard to any litigation challenging the legality of the Oregon State Lottery. Lottery bonds issued pursuant to ORS 286A.580 are valid and binding obligations of the State of Oregon that are payable only from amounts pledged under ORS 286A.580 (7) or from appropriated funds, even if the Oregon State Lottery is partially or wholly invalidated. In the event the lottery is invalidated, the Oregon Department of Administrative Services shall request the Legislative Assembly or, if the Legislative Assembly is not in session, the Emergency Board to provide appropriated funds pursuant to ORS 286A.580 (6).

(2) By enacting this section, the Legislative Assembly acknowledges its current intention to provide appropriated funds if amounts are certified by the Director of the Oregon Department of Administrative Services under ORS 286A.580, but the Legislative Assembly or the Emergency Board does not have a legal obligation to provide appropriated funds. [Formerly 286.578]

286A.580 Issuance of lottery bonds; refunding bonds; bond covenants; reserves for bonds; appropriation to maintain reserves; credit enhancements. (1) The State Treasurer, at the request of the Director of the Oregon Department of Administrative Services, may issue lottery bonds from time to time to finance any lottery bond program and to pay costs of issuing lottery bonds and administering the lottery bond program, and the State Treasury may be paid for all bond-related costs the State Treasury incurs.

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

(3) In addition to lottery bonds for any lottery bond program, the State Treasurer may, at the request of the affected agency or

the Oregon Department of Administrative Services, issue one or more series of refunding lottery bonds. The refunding lottery bonds shall be structured so that the amount required to pay those bonds in each year does not exceed the amount of unobligated net lottery proceeds that could have been committed to pay the lottery bonds that are refunded. Refunding lottery bonds shall be issued in such amount as the State Treasurer determines is necessary or appropriate in order to:

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

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

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

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

(b) Any appropriated funds.

(5) The lottery bonds shall not be general obligations of this state and shall not be secured by or payable from any funds or assets of this state other than the amounts pledged for payment or security and any appropriated funds. The Legislative Assembly shall not be under any legal compulsion or obligation to provide any appropriated funds and shall not be liable to any party for any failure to provide appropriated funds. All lottery bonds issued under ORS 286A.560 to 286A.585 shall contain a statement that this state is not obligated to pay lottery bond principal, interest or premium thereon from any source other than the amounts pledged for payment and any appropriated funds, and that the full faith and credit or the taxing power of the State of Oregon are not pledged to the payment of lottery bond principal, interest or premium.

(6) The State Treasurer may establish reserves for lottery bonds. The reserves may be in the form of cash, investments, surety bonds, municipal bond insurance, lines of credit, letters of credit or other similar instruments. The State Treasurer, on behalf of the State of Oregon, may covenant to maintain the reserves at particular levels, but solely from the amounts that may be pledged to pay lottery bonds under subsection (7) of this section. If the reserves are drawn down below the level that this state has covenanted to maintain, the Director of the Oregon Department of Administrative Services shall promptly certify to the Legislative Assembly or, if the Legislative Assembly is not then in session, to the Emergency Board, the amount needed to restore the reserves to their required level. The Legislative Assembly or the Emergency Board may provide ap-

appropriated funds in the amount certified by the Director of the Oregon Department of Administrative Services. Any appropriated funds so provided shall be used immediately to restore the balance in the reserves established for the lottery bonds. The State of Oregon may enter into covenants with the owners of the lottery bonds that specify the timing and content of the director's certification. By enacting this subsection, the Legislative Assembly acknowledges its current intention to provide appropriated funds in the amount certified by the director under this subsection. However, the Legislative Assembly or the Emergency Board shall not have any legal obligation to provide any appropriated funds.

(7) Notwithstanding any other provision of law, the State Treasurer may pledge all or any portion of the unobligated net lottery proceeds, amounts in the Lottery Bond Fund and any unexpended lottery bond proceeds to pay lottery bonds and to pay amounts due in connection with any credit enhancement or any instrument authorized by subsection (6) of this section. The lien of such pledge shall be valid and binding immediately upon delivery by the state of the lottery bonds, credit enhancement agreement or instrument secured by the pledge. The amounts so pledged shall be immediately subject to the lien of the pledge upon receipt of the amounts by this state regardless of when or whether they are allocated or transferred to the Lottery Bond Fund or the Lottery Bond Administrative Fund and regardless of whether there was physical delivery, filing or other act. Except to the extent provided in the pledge, the lien of the pledge shall be superior to all other claims, liens and appropriations of any kind. The State Treasurer may provide that lottery bonds may be issued in different series and that each series may be secured by a lien on, and pledge of, the unobligated net lottery proceeds that is superior to, subordinate to, or on a parity with, the lien of the pledge securing other series of lottery bonds. Nothing in this section shall be construed to limit the powers granted in any other part of ORS 286A.560 to 286A.585.

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

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

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

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

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

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

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

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

(9) In connection with the issuance of any lottery bonds, the State Treasurer may establish such accounts and subaccounts within the Lottery Bond Fund that the State Treasurer determines are necessary or appropriate. In addition, the State Treasurer or the Director of the Oregon Department of Administrative Services may, on behalf of this state, enter into any agreements that the State Treasurer determines are necessary or appropriate to issue lottery bonds and carry out the provisions of ORS 286A.560 to 286A.585 and all legislation authorizing lottery bond programs.

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

(11) The State Treasurer may provide that all or any portion of the Lottery Bond Fund, the Lottery Bond Administrative Fund or any accounts in either fund shall be held by a trustee, may enter into agreements with the trustee regarding the use and application of the amounts held in those funds and accounts and may transfer amounts credited to those funds and accounts to the trustee. [Formerly 286.580]

286A.585 Lottery bonds for community sports facilities; use of proceeds of bonds. (1) Pursuant to ORS 286A.560 to 286A.585 and subject to future legislative approval, lottery bonds may be issued to make grants or loans to Oregon cities to fund projects for the reconstruction, renovation or development of community sports facilities in order to make the facilities suitable for use by a major league baseball team if a city is selected as an expansion site by major league baseball or if a major league baseball team agrees to relocate to a city.

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

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

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

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

(4) The net proceeds of lottery bonds issued pursuant to this section shall be deposited in the Economic Infrastructure Project Fund established by ORS 285B.551. The Director of the Economic and Community Development Department shall allocate the moneys deposited in the Economic Infrastructure Project Fund for the purpose described in this section in accordance with the priorities developed by the Oregon Economic and Community Development Commission in accordance with ORS 285A.020.

(5) The proceeds of lottery bonds issued pursuant to this section shall be used only for the purposes set forth in this section and for bond-related costs. [Formerly 286.585]

PRIVATE ACTIVITY BONDS

286A.605 Definitions for ORS 286A.605 to 286A.625. As used in ORS 286A.605 to 286A.625:

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

(2) "Private activity bonds" has the meaning given in section 141 of the Internal Revenue Code. [Formerly 286.605]

286A.615 Private Activity Bond Committee; purpose of private activity bonding; rules. (1) The Private Activity Bond Committee is established. It shall consist of the State Treasurer or the designee of the State Treasurer, one representative from the Oregon Department of Administrative Services and one public representative appointed to serve at the pleasure of the Governor.

(2) The State Treasurer, or the State Treasurer's designee, shall serve as chair of the committee.

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

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

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

(c) Ensure that the standards include but are not limited to standards that:

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

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

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

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

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

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

(4) The state private activity bond volume cap allocated to the Private Activity Bond Committee as provided in ORS 286A.620 shall be allocated and reallocated among issuers by the Private Activity Bond Committee as follows:

(a) Any amounts not reserved to an issuer or a class of issuers under the authorization adopted by the Legislative Assembly under ORS 286A.035 shall be allocated or reallocated by the committee under rules adopted under subsection (3) of this section.

(b) Any amounts provided for in the authorization adopted by the Legislative Assembly under ORS 286A.035 that are unused shall be carried forward for use as provided by rules adopted under subsection (3) of this section.

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

(5) Unused allocations are not transferable among issuers but are available for reallocation. [Formerly 286.615]

286A.620 Private activity bond volume cap. The Legislative Assembly may allocate the amount of private activity bond volume cap among state agencies and the Private Activity Bond Committee for the two calendar years that begin in a biennium. Any volume cap that the state receives that is not allocated by the Legislative Assembly may be allocated by the Private Activity Bond Committee. [2007 c.783 §31]

286A.625 State Treasurer to maintain records. The State Treasurer shall maintain the official state private activity bond volume cap records and provide administrative support to the Private Activity Bond Committee. [Formerly 286.645]

BACCALAUREATE BONDS

286A.700 Authority to issue baccalaureate bonds. (1) As used in this section:

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

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

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

(3) The Legislative Assembly finds:

(a) For the benefit of its citizens, the state supports a system of common schools,

institutions of higher education and community colleges.

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

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

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

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

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

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

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

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

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

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

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

(5) The purchase of an Oregon Baccalaureate Bond does not guarantee the purchaser, owner or beneficiary of the bond admittance to a public or private post-secondary institution. [2007 c.783 §33]

PENSION LIABILITY BONDS

286A.730 Definitions for ORS 286A.730 to 286A.750. As used in ORS 286A.730 to 286A.750, unless the context requires otherwise:

(1) "Article XI-O bonds" means general obligation bonds or other general obligation

indebtedness issued or incurred under the authority of Article XI-O of the Oregon Constitution.

(2) "Bond administration fund" means the Article XI-O Bond Administration Fund established under ORS 286A.745.

(3) "Bond fund" means the Article XI-O Bond Fund established under ORS 286A.740.

(4) "Bond-related costs" means:

(a) The costs of paying the principal of, the interest on and the premium, if any, on Article XI-O bonds;

(b) The costs and expenses of issuing, administering and maintaining Article XI-O bonds including, but not limited to, redeeming Article XI-O bonds, paying amounts due in connection with bond insurance, other credit enhancements or the administrative costs and expenses of the State Treasurer and the Oregon Department of Administrative Services, including costs of consultants or advisors retained by the State Treasurer or the Oregon Department of Administrative Services for the purpose of issuing, administering or maintaining Article XI-O bonds;

(c) Capitalized interest on Article XI-O bonds;

(d) Costs of funding reserves for Article XI-O bonds, including costs of surety bonds and similar instruments;

(e) Rebates or penalties due the United States Government in connection with Article XI-O bonds; and

(f) Other costs or expenses that the State Treasurer or the Director of the Oregon Department of Administrative Services determines are necessary or desirable in connection with issuing, administering or maintaining Article XI-O bonds.

(5) "State agency" means a state officer, board, commission, corporation, institution, department or other state organization that has officers or employees participating in the Public Employees Retirement System. [Formerly 286.730]

286A.735 Authority of State Treasurer to issue pension liability bonds; nature and purpose of bonds; refunding bonds.

(1) Article XI-O bonds are a general obligation of the State of Oregon and must contain a direct promise on behalf of the State of Oregon to pay the principal of, the interest on and the premium, if any, on the Article XI-O bonds. The State of Oregon shall pledge its full faith and credit and taxing power to pay Article XI-O bonds; however, the ad valorem taxing power of the State of Oregon may not be pledged to pay Article XI-O bonds.

(2) The State Treasurer may issue Article XI-O bonds:

(a) To finance all or a portion of the state's pension liabilities for retirement, health care or disability benefits, in an amount that produces net proceeds that do not exceed the State Treasurer's estimate of those liabilities based on information provided to the State Treasurer by the Public Employees Retirement System, plus an amount determined by the State Treasurer to pay estimated bond-related costs. If Article XI-O bonds are issued for a purpose described in this paragraph, the Director of the Oregon Department of Administrative Services shall allocate the bond-related costs of those Article XI-O bonds among affected state agencies based on their payroll costs and shall bill those state agencies for an appropriate share of the bond-related costs on a monthly or other periodic basis. A state agency receiving a bill under this paragraph shall pay the amounts billed from the first moneys legally available to the state agency after paying the costs incurred for obligations under ORS 283.085 to 283.092.

(b) To refund Article XI-O bonds. The amount of Article XI-O bonds issued under this paragraph may not exceed the estimated costs of paying, redeeming or defeasing the refunded bonds, plus an amount determined by the State Treasurer to pay estimated bond-related costs. If Article XI-O bonds are issued under this paragraph, the Director of the Oregon Department of Administrative Services shall bill a state agency that was responsible for payment of the refunded bonds for an appropriate share of the bond-related costs on a monthly or other periodic basis. A state agency receiving a bill under this paragraph shall pay the amounts billed from the first moneys legally available to the state agency after paying the costs incurred for obligations under ORS 283.085 to 283.092.

(3) The net proceeds of Article XI-O bonds issued to finance all or a portion the state's pension liabilities for retirement, health care or disability benefits must be transferred to the Public Employees Retirement Board for deposit in the Public Employees Retirement Fund established under ORS 238.660. [Formerly 286.735]

286A.740 Article XI-O Bond Fund; purposes.

(1) The Article XI-O Bond Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned on the bond fund must be credited to the bond fund. Amounts credited to the bond fund are continuously appropriated to the Oregon Department of Administrative Services for the purpose of paying, when due, the principal of, the interest on and the premium, if any, on outstanding Article XI-O bonds. The Oregon Department of Administrative Services shall credit to the bond fund:

(a) Capitalized or accrued interest on Article XI-O bonds;

(b) Amounts appropriated or otherwise provided by the Legislative Assembly for deposit in the bond fund;

(c) Reserves established for the payment of Article XI-O bonds; and

(d) Amounts received in payment of a bill for bond-related costs in amounts and at times so that sufficient moneys are available in the bond fund to pay the principal of, the interest on and the premium, if any, on Article XI-O bonds when due.

(2) The department may create separate accounts in the bond fund for reserves and debt service for each series of Article XI-O bonds. [Formerly 286.740]

286A.745 Article XI-O Bond Administration Fund; purposes. (1) The Article XI-O Bond Administration Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned on the bond administration fund must be credited to the bond administration fund. Amounts credited to the bond administration fund are continuously appropriated to the Oregon Department of Administrative Services for payment of bond-related costs. The department shall credit to the bond administration fund:

(a) Proceeds of Article XI-O bonds that were issued to pay bond-related costs that are not credited to the bond fund;

(b) Amounts appropriated or otherwise provided by the Legislative Assembly for deposit in the bond administration fund; and

(c) Amounts received in payment of a bill for bond-related costs that are not credited to the bond fund.

(2) The department may create separate accounts in the bond administration fund. [Formerly 286.745]

286A.750 Terms and conditions of pension liability bonds. (1) In accordance with the applicable provisions of this chapter, the State Treasurer, after consulting with the Director of the Oregon Department of Administrative Services, may issue Article XI-O bonds from time to time for the purposes described in ORS 286A.735 (2).

(2) Article XI-O bonds may be issued and sold as provided in this chapter.

(3) Subject to the approval of the State Treasurer, the Director of the Oregon Department of Administrative Services may:

(a) Enter into agreements with a trustee or escrow agent regarding the use and application of the amounts held in the Article XI-O Bond Fund or the Article XI-O Bond Administration Fund; and

(b) Transfer amounts credited to the bond fund or the bond administration fund to a trustee or escrow agent. [Formerly 286.750]

SEISMIC REHABILITATION BONDS (Public Education Buildings)

286A.760 Definitions for ORS 286A.760 to 286A.772. As used in ORS 286A.760 to 286A.772, unless the context requires otherwise:

(1) “Article XI-M bonds” means general obligation bonds or other general obligation indebtedness issued or incurred under the authority of Article XI-M of the Oregon Constitution.

(2) “Bond administration fund” means the Article XI-M Bond Administration Fund established under ORS 286A.766.

(3) “Bond fund” means the Article XI-M Bond Fund established under ORS 286A.764.

(4) “Bond-related costs” means:

(a) The costs of paying the principal of, the interest on and the premium, if any, on Article XI-M bonds;

(b) The costs and expenses of issuing, administering and maintaining Article XI-M bonds including, but not limited to, redeeming Article XI-M bonds and paying amounts due in connection with bond insurance, other credit enhancements or the administrative costs and expenses of the State Treasurer and the Oregon Department of Administrative Services, including costs of consultants or advisers retained by the State Treasurer or the department for the purpose of issuing, administering or maintaining Article XI-M bonds;

(c) Capitalized interest on Article XI-M bonds;

(d) Costs of funding reserves for Article XI-M bonds, including costs of surety bonds and similar instruments;

(e) Rebates or penalties due the United States Government in connection with Article XI-M bonds; and

(f) Other costs or expenses that the Director of the Oregon Department of Administrative Services determines are necessary or desirable in connection with issuing, administering or maintaining Article XI-M bonds.

(5) “Seismic fund” means the Education Seismic Fund established under ORS 286A.768.

(6) “State share of costs” means the total costs and related expenses of the seismic rehabilitation of public education buildings, minus contributions for seismic rehabilitation from the applicants as required by the

Office of Emergency Management. [Formerly 286.760]

286A.762 Authority of State Treasurer to issue bonds. (1) Article XI-M bonds are a general obligation of the State of Oregon and must contain a direct promise on behalf of the State of Oregon to pay the principal of, the interest on and the premium, if any, on the Article XI-M bonds. The State of Oregon shall pledge its full faith and credit and taxing power to pay Article XI-M bonds, except that the ad valorem taxing power of the State of Oregon may not be pledged to pay Article XI-M bonds.

(2) The State Treasurer, with the concurrence of the Director of the Oregon Department of Administrative Services, may issue Article XI-M bonds as provided in this chapter, subject to the limit on bond issuance established for the particular biennium pursuant to ORS 286A.035 and at the request of the Director of the Office of Emergency Management, for the purpose of financing all or a portion of the state share of costs to plan and implement seismic rehabilitation of public education buildings in the amount of the state share of costs, plus an amount determined by the State Treasurer to pay estimated bond-related costs.

(3) The State Treasurer shall transfer the net proceeds of Article XI-M bonds issued for the purpose described in subsection (2)(a) of this section to the Office of Emergency Management for deposit in the Education Seismic Fund established under ORS 286A.768. [Formerly 286.762]

286A.764 Article XI-M Bond Fund; purposes. (1) The Article XI-M Bond Fund is established in the State Treasury, separate and distinct from the General Fund. Amounts in the bond fund may be invested as provided in ORS 293.701 to 293.820, and interest earned on the bond fund must be credited to the bond fund. Amounts credited to the bond fund are continuously appropriated to the Oregon Department of Administrative Services for the purpose of paying, when due, the principal of, the interest on and the premium, if any, on outstanding Article XI-M bonds. The department shall deposit in the bond fund:

- (a) Capitalized or accrued interest on Article XI-M bonds;
- (b) Amounts appropriated or otherwise provided by the Legislative Assembly for deposit in the bond fund; and
- (c) Reserves established for the payment of Article XI-M bonds.

(2) The department may create separate accounts in the bond fund for reserves and debt service for each series of Article XI-M bonds. [Formerly 286.764]

286A.766 Article XI-M Bond Administration Fund; purposes. (1) The Article XI-M Bond Administration Fund is established in the State Treasury, separate and distinct from the General Fund. Amounts in the bond administration fund may be invested as provided in ORS 293.701 to 293.820, and interest earned on the bond administration fund must be credited to the bond administration fund. Amounts credited to the bond administration fund are continuously appropriated to the Oregon Department of Administrative Services for payment of bond-related costs. The department shall credit to the bond administration fund:

- (a) Proceeds of Article XI-M bonds that were issued to pay bond-related costs;
- (b) Amounts appropriated or otherwise provided by the Legislative Assembly for deposit in the bond administration fund; and
- (c) Amounts transferred from the Education Seismic Fund by the Office of Emergency Management as provided in ORS 286A.768.

(2) The department may create separate accounts in the bond administration fund. [Formerly 286.766]

286A.768 Education Seismic Fund; purposes; rules. (1) The Education Seismic Fund is established in the State Treasury, separate and distinct from the General Fund. Amounts in the seismic fund may be invested as provided in ORS 293.701 to 293.820, and interest earned on the seismic fund must be credited to the seismic fund. Amounts credited to the seismic fund are continuously appropriated to the Office of Emergency Management for the purpose described in ORS 286A.762 (2) and for the purpose of paying bond-related costs. The office shall deposit in the seismic fund:

- (a) The net proceeds of Article XI-M bonds transferred pursuant to ORS 286A.762 (3);
 - (b) Amounts appropriated or otherwise provided by the Legislative Assembly for deposit in the seismic fund;
 - (c) Gifts, grants or contributions received by the office for the purpose described in ORS 286A.762 (2); and
 - (d) Moneys received as repayment of, as a return on or in exchange for the grant or loan of net proceeds of Article XI-M bonds.
- (2) The office may create separate accounts in the seismic fund as appropriate for the management of moneys in the seismic fund.

(3) The office and any other state agency or other entity receiving or holding net proceeds of Article XI-M bonds shall, at the direction of the Oregon Department of

Administrative Services, take action necessary to maintain the excludability of interest on Article XI-M bonds from gross income under the Internal Revenue Code.

(4) The office shall transfer to the Article XI-M Bond Administration Fund the unexpended and uncommitted amounts remaining in the seismic fund if:

(a) Unexpended funds that are not contractually committed to a particular purpose remain in the seismic fund on the last day of the biennium; and

(b) Article XI-M bonds will be outstanding in the next biennium.

(5) The office may adopt rules to carry out this section including, but not limited to, establishing:

(a) Required contributions from applicants;

(b) Fees;

(c) Standards, terms and conditions under which moneys in the seismic fund may be granted, loaned or otherwise made available; and

(d) Procedures for distributing and monitoring the use of moneys from the seismic fund. [Formerly 286.768]

286A.772 Payment of bond-related costs. For each biennium in which Article XI-M bonds will be outstanding, the Oregon Department of Administrative Services shall include in the Governor's budget request to the Legislative Assembly an amount that, when added to the amount on deposit in the Article XI-M Bond Fund and the Article XI-M Bond Administration Fund, is sufficient to pay the bond-related costs that are scheduled to come due in the biennium. [Formerly 286.772]

(Emergency Services Buildings)

286A.780 Definitions for ORS 286A.780 to 286A.792. As used in ORS 286A.780 to 286A.792, unless the context requires otherwise:

(1) "Article XI-N bonds" means general obligation bonds or other general obligation indebtedness issued or incurred under the authority of Article XI-N of the Oregon Constitution.

(2) "Bond administration fund" means the Article XI-N Bond Administration Fund established under ORS 286A.786.

(3) "Bond fund" means the Article XI-N Bond Fund established under ORS 286A.784.

(4) "Bond-related costs" means:

(a) The costs of paying the principal of, the interest on and the premium, if any, on Article XI-N bonds;

(b) The costs and expenses of issuing, administering and maintaining Article XI-N bonds including, but not limited to, redeeming Article XI-N bonds and paying amounts due in connection with bond insurance, other credit enhancements or the administrative costs and expenses of the State Treasurer and the Oregon Department of Administrative Services, including costs of consultants or advisers retained by the State Treasurer or the department for the purpose of issuing, administering or maintaining Article XI-N bonds;

(c) Capitalized interest on Article XI-N bonds;

(d) Costs of funding reserves for Article XI-N bonds, including costs of surety bonds and similar instruments;

(e) Rebates or penalties due the United States Government in connection with Article XI-N bonds; and

(f) Other costs or expenses that the Director of the Oregon Department of Administrative Services determines are necessary or desirable in connection with issuing, administering or maintaining Article XI-N bonds.

(5) "Seismic fund" means the Emergency Services Seismic Fund established under ORS 286A.788.

(6) "State share of costs" means the total costs and related expenses of the seismic rehabilitation of emergency services buildings, minus contributions for seismic rehabilitation from the applicants as required by the Office of Emergency Management. [Formerly 286.780]

286A.782 Authority of State Treasurer to issue bonds. (1) Article XI-N bonds are a general obligation of the State of Oregon and must contain a direct promise on behalf of the State of Oregon to pay the principal of, the interest on and the premium, if any, on the Article XI-N bonds. The State of Oregon shall pledge its full faith and credit and taxing power to pay Article XI-N bonds, except that the ad valorem taxing power of the State of Oregon may not be pledged to pay Article XI-N bonds.

(2) The State Treasurer, with the concurrence of the Director of the Oregon Department of Administrative Services, may issue Article XI-N bonds as provided in this chapter, subject to the limit on bond issuance established for the particular biennium pursuant to ORS 286A.035 and at the request of the Director of the Office of Emergency Management, for the purpose of financing all or a portion of the state share of costs to plan and implement seismic rehabilitation of emergency services buildings in the amount of the state share of costs, plus an amount

determined by the State Treasurer to pay estimated bond-related costs.

(3) The State Treasurer shall transfer the net proceeds of Article XI-N bonds issued for the purpose described in subsection (2)(a) of this section to the Office of Emergency Management for deposit in the Emergency Services Seismic Fund established under ORS 286A.788. [Formerly 286.782]

286A.784 Article XI-N Bond Fund; purposes. (1) The Article XI-N Bond Fund is established in the State Treasury, separate and distinct from the General Fund. Amounts in the bond fund may be invested as provided in ORS 293.701 to 293.820, and interest earned on the bond fund must be credited to the bond fund. Amounts credited to the bond fund are continuously appropriated to the Oregon Department of Administrative Services for the purpose of paying, when due, the principal of, the interest on and the premium, if any, on outstanding Article XI-N bonds. The department shall deposit in the bond fund:

(a) Capitalized or accrued interest on Article XI-N bonds;

(b) Amounts appropriated or otherwise provided by the Legislative Assembly for deposit in the bond fund; and

(c) Reserves established for the payment of Article XI-N bonds.

(2) The department may create separate accounts in the bond fund for reserves and debt service for each series of Article XI-N bonds. [Formerly 286.784]

286A.786 Article XI-N Bond Administration Fund; purposes. (1) The Article XI-N Bond Administration Fund is established in the State Treasury, separate and distinct from the General Fund. Amounts in the bond administration fund may be invested as provided in ORS 293.701 to 293.820, and interest earned on the bond administration fund must be credited to the bond administration fund. Amounts credited to the bond administration fund are continuously appropriated to the Oregon Department of Administrative Services for payment of bond-related costs. The department shall credit to the bond administration fund:

(a) Proceeds of Article XI-N bonds that were issued to pay bond-related costs;

(b) Amounts appropriated or otherwise provided by the Legislative Assembly for deposit in the bond administration fund; and

(c) Amounts transferred from the Emergency Services Seismic Fund by the Office of Emergency Management as provided in ORS 286A.788.

(2) The department may create separate accounts in the bond administration fund. [Formerly 286.786]

286A.788 Emergency Services Seismic Fund; purposes; rules; fees. (1) The Emergency Services Seismic Fund is established in the State Treasury, separate and distinct from the General Fund. Amounts in the seismic fund may be invested as provided in ORS 293.701 to 293.820, and interest earned on the seismic fund must be credited to the seismic fund. Amounts credited to the seismic fund are continuously appropriated to the Office of Emergency Management for the purpose described in ORS 286A.782 (2) and for the purpose of paying bond-related costs. The office shall deposit in the seismic fund:

(a) The net proceeds of Article XI-N bonds transferred pursuant to ORS 286A.782 (3);

(b) Amounts appropriated or otherwise provided by the Legislative Assembly for deposit in the seismic fund;

(c) Gifts, grants or contributions received by the office for the purpose described in ORS 286A.782 (2); and

(d) Moneys received as repayment of, as a return on or in exchange for the grant or loan of net proceeds of Article XI-N bonds.

(2) The office may create separate accounts in the seismic fund as appropriate for the management of moneys in the seismic fund.

(3) The office and any other state agency or other entity receiving or holding net proceeds of Article XI-N bonds shall, at the direction of the Oregon Department of Administrative Services, take action necessary to maintain the excludability of interest on Article XI-N bonds from gross income under the Internal Revenue Code.

(4) The office shall transfer to the Article XI-N Bond Administration Fund the unexpended and uncommitted amounts remaining in the seismic fund if:

(a) Unexpended funds that are not contractually committed to a particular purpose remain in the seismic fund on the last day of the biennium; and

(b) Article XI-N bonds will be outstanding in the next biennium.

(5) The office may adopt rules to carry out this section including, but not limited to, establishing:

(a) Required contributions from applicants;

(b) Fees;

(c) Standards, terms and conditions under which moneys in the seismic fund may be

granted, loaned or otherwise made available; and

(d) Procedures for distributing and monitoring the use of moneys from the seismic fund. [Formerly 286.788]

286A.792 Payment of bond-related costs. For each biennium in which Article XI-N bonds will be outstanding, the Oregon

Department of Administrative Services shall include in the Governor's budget request to the Legislative Assembly an amount that, when added to the amount on deposit in the Article XI-N Bond Fund and the Article XI-N Bond Administration Fund, is sufficient to pay the bond-related costs that are scheduled to come due in the biennium. [Formerly 286.792]

PUBLIC BORROWING
