

# Chapter 353

2003 EDITION

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**GENERAL PROVISIONS**

**353.010 Definitions.** As used in this chapter:

(1) “Board” means the Oregon Health and Science University Board of Directors established under ORS 353.040.

(2) “Public corporation” means an entity that is created by the state to carry out public missions and services. In order to carry out these public missions and services, a public corporation participates in activities or provides services that are also provided by private enterprise. A public corporation is granted increased operating flexibility in order to best ensure its success, while retaining principles of public accountability and fundamental public policy. The board of directors of a public corporation is appointed by the Governor and confirmed by the Senate but is otherwise delegated the authority to set policy and manage the operations of the public corporation.

(3) “University” or “Oregon Health and Science University” means the Oregon Health and Science University public corporation created under ORS 353.020. [1995 c.162 §1; 1999 c.291 §1]

**353.020 Oregon Health and Science University as public corporation; establishment; status.** Oregon Health and Science University is established as a public corporation and shall exercise and carry out all powers, rights and privileges that are expressly conferred upon it, are implied by law or are incident to such powers. The university shall be a governmental entity performing governmental functions and exercising governmental powers. The university shall be an independent public corporation with statewide purposes and missions and without territorial boundaries. The university shall be a governmental entity but shall not be considered a unit of local or municipal government or a state agency for purposes of state statutes or constitutional provisions. [1995 c.162 §2; 1999 c.291 §2; 2001 c.123 §1]

**353.030 Public policy of university; missions; purposes.** (1) It shall be the public policy of the Oregon Health and Science University in carrying out its missions as a public corporation:

(a) To serve the people of the State of Oregon by providing education in health, science, engineering and their management for students of the state and region.

(b) To provide:

(A) An environment that stimulates the spirit of inquiry, initiative and cooperation

between and among students, faculty and staff;

(B) Research in health care, engineering, biomedical sciences and general sciences; and

(C) The delivery of health care to contribute to the development and dissemination of new knowledge.

(2) The university will strive for excellence in education, research, clinical practice, scholarship and community service while maintaining compassion, personal and institutional integrity and leadership in carrying out its missions.

(3) The university is designated to carry out the following public purposes and missions on behalf of the State of Oregon:

(a) Provide high quality educational programs appropriate for a health and science university;

(b) Conduct research in health care, engineering, biomedical sciences and general sciences;

(c) Engage in the provision of inpatient and outpatient clinical care and health care delivery systems throughout the state;

(d) Provide outreach programs in education, research and health care;

(e) Serve as a local, regional and statewide resource for health care providers; and

(f) Continue a commitment to provide health care to the underserved patient population of Oregon.

(4) The university shall carry out the public purposes and missions of this section in the manner that, in the determination of the Oregon Health and Science University Board of Directors, best promotes the public welfare of the people of the State of Oregon. [1995 c.162 §3; 2001 c.123 §3]

**353.035 Certain laws to be liberally construed; severability.** Chapter 162, Oregon Laws 1995, shall be liberally construed to effect the purposes and intent thereof. If any provision of chapter 162, Oregon Laws 1995, or the application of that provision to any particular circumstance or person, shall be held invalid, the remainder of chapter 162, Oregon Laws 1995, and the application of that provision to circumstances or persons other than those to which it is held invalid shall not be affected thereby. [1995 c.162 §90]

**Note:** Legislative Counsel has substituted “chapter 162, Oregon Laws 1995,” for the words “this Act” in section 90, chapter 162, Oregon Laws 1995, compiled as 353.035. Specific ORS references have not been substituted pursuant to 173.160. These sections may be determined by referring to the 1995 Comparative Section Table located in Volume 18 of ORS.

**BOARD OF DIRECTORS**

**353.040 Board of directors; appointment; membership; meetings; removal of members.** (1) There is established an Oregon Health and Science University Board of Directors consisting of 10 members. The directors, except for the president of the university, shall be appointed by the Governor and shall be confirmed by the Senate in the manner prescribed in ORS 171.562 and 171.565.

(2) Except for the president of the university, the term of office of each nonstudent member is four years. The term of office of the student member is two years. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on October 1 next following. A member is eligible for reappointment for one additional term. If there is a vacancy for any cause, the Governor shall make an appointment to become effective immediately for the unexpired term. The board shall nominate a slate of candidates whenever a vacancy occurs or is announced and shall forward the recommended candidates to the Governor for consideration. To assist the Governor in appointing the student member, the duly organized and recognized entity of student government shall submit a list of nominees to the Governor for consideration.

(3) The membership of the board shall be as follows:

(a) One representative who is a nonstudent member of the State Board of Higher Education.

(b) Seven representatives who, in the discretion of the Governor, have experience in areas related to the university missions or that are important to the success of Oregon Health and Science University, including but not limited to higher education, health care, scientific research, engineering and technology and economic and business development.

(c) One representative who is a student enrolled at the university.

(d) The president of the university, who shall be an ex officio voting member.

(4) Directors must be citizens of the United States. Except for the president of the university, no voting member may be an employee of the university.

(5) The board shall select one of its members as chairperson and another as vice chairperson for such terms and with such duties and powers as the board considers necessary for performance of the functions of those offices. The board shall adopt bylaws concerning how a quorum shall be constituted and when a quorum shall be necessary.

(6) The board shall meet at least once every three months at Oregon Health and Science University. The board shall meet at such other times and places specified by the chairperson or by a majority of the members of the board.

(7) The Governor may remove any member of the board at any time for cause, after notice and public hearing, but not more than three members shall be removed within a period of four years, unless it is for corrupt conduct in office. [1995 c.162 §4; 1999 c.291 §3; 2001 c.123 §4]

**Note:** Section 5, chapter 123, Oregon Laws 2001, provides:

**Sec. 5.** Notwithstanding the term of office specified by ORS 353.040, of the additional members first appointed to the Oregon Health and Science University Board of Directors pursuant to ORS 353.040 as amended by section 4 of this 2001 Act:

(1) Two shall serve for terms ending September 30, 2004.

(2) One shall serve for a term ending September 30, 2005. [2001 c.123 §5]

**353.050 Powers and duties of board and university officials.** Except as otherwise provided in this chapter, the Oregon Health and Science University Board of Directors, or university officials acting under the authority of the board, shall exercise all the powers of the Oregon Health and Science University and shall govern the university. In carrying out its powers, rights and privileges, the university shall be a governmental entity performing governmental functions and exercising governmental powers. The university or the board may either within or outside the state:

(1) Determine or approve policies for the organization, administration and development of the university.

(2) Appoint and employ any instructional, administrative, professional, trade, occupational and other personnel as are necessary or appropriate to carry out the missions of the university, and prescribe their compensation and terms of office or employment.

(3) Make any and all contracts and agreements, enter into any partnership, joint venture or other business arrangement, create and participate fully in the operation of any business structure, including but not limited to the development of business structures for health care delivery systems and networks with any public or private government, nonprofit or for-profit person or entity that in the judgment of the university or the board is necessary or appropriate to carry out the university's missions and goals.

(4) Acquire, purchase, receive, hold, control, convey, sell, manage, operate, lease, license, lend, invest, improve, develop, use, dispose of and hold title to real and personal

property of any nature, including intellectual property, in its own name.

(5) Sue in its own name and be sued, plead and be impleaded in all actions, suits or proceedings in any forum brought by or against it by any and all private or state, local, federal or other public entities, agencies or persons.

(6) Encourage gifts and donations for the benefit of the university, and subject to the terms of the gift, retain, invest and use such gifts as deemed appropriate by the university or the board.

(7) Acquire, receive, hold, keep, pledge, control, convey, manage, use, lend, expend and invest all funds, appropriations, gifts, bequests, stock and revenue from any source to the university.

(8) Borrow money for the needs of the university, in such amounts and for such time and upon such terms as may be determined by the university or the board.

(9) Erect, construct, improve, develop, repair, maintain, equip, furnish, lease, lend, convey, sell, manage, operate, use, dispose of and hold title to buildings, structures and lands for the university.

(10) Purchase any and all insurance, operate a self-insurance program or otherwise arrange for the equivalent of insurance coverage of any nature and the indemnity and defense of its officers, agents and employees or other persons designated by the university to carry out or further the missions of the university.

(11) Create, develop, supervise, control and adopt academic programs, including standards, qualifications, policies or practices relating to admissions, curriculum, academic advancement, grading policy, student conduct, credits and scholarships and the granting of academic degrees, certificates and other forms of recognition.

(12) Authorize, create, eliminate, establish, operate, reorganize, reduce or expand any program, school, institute, health care facility or other unit of operation.

(13) Establish, charge, collect and use charges for enrollment into the university, including charges such as tuition for education and general services, incidental fees and such other charges found by the university to be necessary to carry out its educational programs. Fees realized in excess of amounts allocated and exceeding required reserves shall be considered surplus incidental fees and shall be allocated for programs under the control of the board and found to be advantageous to the cultural or physical development of students of the university upon the recommendation of the recognized student government of the university.

(14) Establish, charge, collect and use charges and fees for university services and the use of university facilities.

(15) Impose charges, fines, fees and such other regulations considered convenient or necessary to control and regulate traffic and parking of vehicles to the same extent allowed the State Board of Higher Education. This authority includes the authority to enforce the regulations of the university in a court to the extent allowed the State Board of Higher Education in enforcing the state board's regulations as provided in ORS 352.360 (7).

(16) Commission as special campus security officers one or more individuals who will have probable cause arrest authority and the accompanying immunities as set forth in ORS 133.310 and 133.315 when acting in the scope of their duties, provided that such individuals are trained and certified by the Department of Public Safety Standards and Training, and provided further that such officers shall not be authorized to carry firearms as police officers and shall not be considered police officers for purposes of ORS 181.610, 238.005, 243.005 or 243.736. The university shall be considered a criminal justice agency for purposes of ORS 181.715 and 181.720.

(17) Enforce and recover for payment to the university any fines that are authorized by this chapter.

(18) Adopt, amend or repeal bylaws, administrative rules, regulations and orders applicable to the matters that are the subject of this chapter.

(19) Contract with any state agency for the performance of such duties, functions and powers as is appropriate. A state agency shall not charge the university for such services an amount that is greater than the actual cost of the services.

(20) Purchase, receive, subscribe for or otherwise acquire, own, hold, vote, use, sell, mortgage, lend, pledge, invest in or otherwise dispose of and deal in or with the shares, stock or other equity or interests in or obligations of any other entity. Separate funds may be established for such investments. The State of Oregon shall have no proprietary or other interest in such investments or such funds.

(21) Make available, by lease or otherwise, or control access to any health care facilities or services or other of its properties and assets to such persons, firms, partnerships, associations or corporations and on such terms as considered appropriate, charge and collect rent or other fees or charges therefor and terminate or deny any such access or any such lease or other agreement

for such reasons as considered appropriate and as may be consistent with its obligations under any such lease or other agreement.

(22) Contract for the operation of any department, section, equipment or holdings of the university and enter into any agreements with any person, firm or corporation for the management by said person, firm or corporation on behalf of the university of any of its properties or for the more efficient or economical performance of clerical, accounting, administrative and other functions relating to its health care facilities.

(23) Select and appoint faculty as medical and dental staff members and others licensed to practice the healing arts, delineate and define the privileges granted each such individual, adopt and direct a plan for faculty clinical income and set the terms and conditions of that plan (including such modifications to any such existing plan as considered necessary or appropriate upon expiration of the term of such plan), and determine the extent to which and the terms upon which each such individual may provide teaching, research, consulting or other services at the university or any other health care facility.

(24) Enter into affiliation, cooperation, territorial, management or other similar agreements with other public or private universities or health care providers for the sharing, division, allocation or furnishing of services on an exclusive or a nonexclusive basis, referral of patients, management of facilities, formation of health care delivery systems and other similar activities.

(25) Perform any other acts that in the judgment of the board or university are requisite, necessary or appropriate in accomplishing the purposes described in or carrying out the powers granted by this chapter.

(26) Exercise these powers, notwithstanding that as a consequence of the exercise of such powers, the university engages in activities that might otherwise be deemed anti-competitive within the contemplation of state or federal antitrust laws. [1995 c.162 §8; 1997 c.853 §38; 1999 c.291 §4]

**353.060 President of university.** The Oregon Health and Science University Board of Directors shall appoint a president of the university. The president is the president of the faculty and is the executive and governing officer of the university. Subject to the supervision of the board, the president has authority to direct the affairs of the university. [1995 c.162 §11]

**353.070 Products of disabled individuals; duties of university; rules; publication of product sources.** (1) As used in this section:

(a) "Direct labor" includes all work required for preparation, processing and packing, but not supervision, administration, inspection or shipping.

(b) "Disabled individual" means an individual who, because of the nature of the individual's disabilities, is not able to participate fully in competitive employment, and for whom specialized employment opportunities must be provided.

(c) "Qualified nonprofit agency for disabled individuals" means a nonprofit activity center or rehabilitation facility:

(A) Organized under the laws of the United States or of this state and operated in the interest of disabled individuals, and the net income of which does not inure in whole or in part to the benefit of any shareholder or other individual;

(B) That complies with any applicable occupational health and safety standards required by the laws of the United States or of this state; and

(C) That in the manufacture of products and in the provision of services during the fiscal year employs disabled individuals for not less than 75 percent of the work hours of direct labor required for the manufacture or provision of the products or services.

(2) The Oregon Health and Science University Board of Directors shall further the policy of this state to encourage and assist disabled individuals to achieve maximum personal independence through useful and productive gainful employment by ensuring an expanded and constant market for sheltered workshop and activity center products and services, thereby enhancing the dignity and capacity of disabled individuals for self-support and minimizing their dependence on welfare and need for costly institutionalization.

(3) It shall be the duty of Oregon Health and Science University to:

(a) Determine the price of all products manufactured and services offered for sale to the university by any qualified nonprofit agency for disabled individuals. The price shall recover for the workshops the cost of raw materials, labor, overhead, delivery costs and a margin held in reserve for inventory and equipment replacement;

(b) Revise such prices from time to time in accordance with changing cost factors;

(c) Make such rules regarding specifications, time of delivery and other relevant matters of procedure as shall be necessary; and

(d) Utilize prices and specifications, in its discretion, established by the Oregon Department of Administrative Services.

(4) The university shall establish and publish a list of sources or potential sources of products produced by any qualified nonprofit agency for disabled individuals and the services provided by any such agency that the university determines are suitable for its procurement. The university, in its discretion, may utilize any list established and published by the Oregon Department of Administrative Services.

(5) If the university intends to procure any product or service on the procurement list, the university shall procure such product or service at the price established by the university from a qualified nonprofit agency for disabled individuals, provided the product or service is of the appropriate specifications and is available at the location and within the period required by the university.

(6) It is the intent of the Legislative Assembly that there be close cooperation between the board, the university and qualified nonprofit agencies for disabled individuals. The university, on behalf of the board, is authorized to enter into such contractual agreements, cooperative working relationships or other arrangements as may be necessary for effective coordination and efficient realization of the objectives of this section. [1995 c.162 §16a; 1999 c.291 §5]

**353.080 Report on activities and operations.** Oregon Health and Science University shall file with the Legislative Assembly and the Governor, not later than April 15 of each year, a report of the university's activities and operations for the preceding year. [1995 c.162 §7; 1999 c.291 §6]

**AUTHORITY AND DUTIES**

**353.100 Applicability of laws to university.** (1) The provisions of ORS chapters 35, 190, 192, 244 and 295 and ORS 17.095, 30.260 to 30.460, 200.005 to 200.025, 200.045 to 200.090, 236.605 to 236.640, 243.650 to 243.782, 297.040, 307.090 and 307.112 shall apply to Oregon Health and Science University under the same terms as they apply to public bodies other than the state.

(2) Except as otherwise provided by law, the provisions of ORS chapters 182, 183, 240, 270, 273, 276, 279, 283, 291, 292, 293, 294 and 297 and ORS 35.550 to 35.575, 180.060, 180.210 to 180.235, 183.710 to 183.725, 183.745, 183.750, 184.305 to 184.345, 190.430, 190.480, 190.490, 192.105, 200.035, 236.380, 243.105 to 243.585, 243.696, 278.011 to 278.120, 278.315 to 278.415, 282.010 to 282.150, 357.805 to 357.895 and 656.017 (2) shall not apply to the university or any not-for-profit organization or other entity if the equity of the entity is owned exclusively by the university and if the organization or entity is created by the

university to advance any of the university's statutory missions.

(3) The university, as a distinct governmental entity, or any organization or entity described in subsection (2) of this section shall not be subject to any provision of law enacted after January 1, 1995, with respect to any governmental entity, unless the provision specifically provides that it applies to the university or to the organization or entity. [1995 c.162 §9; 1999 c.291 §7; 2001 c.921 §27; 2003 c.534 §13]

**Note:** The amendments to 353.100 by section 263, chapter 794, Oregon Laws 2003, become operative March 1, 2005, and apply only to public contracts first advertised, but if not advertised then entered into, on or after March 1, 2005. See sections 336 and 337, chapter 794, Oregon Laws 2003. The text that is operative on and after March 1, 2005, is set forth for the user's convenience.

**353.100.** (1) The provisions of ORS chapters 35, 190, 192, 244 and 295 and ORS 17.095, 30.260 to 30.460, 200.005 to 200.025, 200.045 to 200.090, 236.605 to 236.640, 243.650 to 243.782, 297.040, 307.090 and 307.112 shall apply to Oregon Health and Science University under the same terms as they apply to public bodies other than the state.

(2) Except as otherwise provided by law, the provisions of ORS chapters 182, 183, 240, 270, 273, 276, 279, 279A, 279B, 279C, 283, 291, 292, 293, 294 and 297 and ORS 35.550 to 35.575, 180.060, 180.210 to 180.235, 183.710 to 183.725, 183.745, 183.750, 184.305 to 184.345, 190.430, 190.480, 190.490, 192.105, 200.035, 236.380, 243.105 to 243.585, 243.696, 278.011 to 278.120, 278.315 to 278.415, 282.010 to 282.150, 357.805 to 357.895 and 656.017 (2) shall not apply to the university or any not-for-profit organization or other entity if the equity of the entity is owned exclusively by the university and if the organization or entity is created by the university to advance any of the university's statutory missions.

(3) The university, as a distinct governmental entity, or any organization or entity described in subsection (2) of this section shall not be subject to any provision of law enacted after January 1, 1995, with respect to any governmental entity, unless the provision specifically provides that it applies to the university or to the organization or entity.

**353.108 Real property and facilities utilized by university; legal title; lease; management.** (1) Legal title to real property and facilities acquired by the State of Oregon prior to July 1, 1995, and utilized by Oregon Health and Science University shall remain with the State of Oregon. However, the university shall have the exclusive care, custody and control of such real property and facilities pursuant to an exclusive leasehold interest in the real property and facilities for a term of 99 years. The term of the leasehold shall begin on July 1, 1995, and shall renew automatically and perpetually for consecutive 99-year terms.

(2) Notwithstanding any other provisions of Oregon law concerning the authority of state agencies to lease real property and facilities, the Oregon Department of Administrative Services acting on behalf of the State of Oregon shall execute a ground lease for all real property and facilities utilized by the

university consistent with the provisions of this section.

(3) The ground lease shall not be subject to any termination unless:

(a) The State of Oregon causes all outstanding obligations of the university to be defeased under the terms of any applicable master indenture or financing agreement; and

(b) There are no other conditions placed on the university.

(4) Upon execution of the ground lease, the university shall pay the State of Oregon the sum of \$99 in consideration for the ground lease.

(5) The ground lease executed under this section shall supersede the lease entered into between the State of Oregon and the university in December 1995, with respect to the real property and facilities, including but not limited to provisions in the lease relating to or setting forth:

(a) Purported limitations on the authority of the State Board of Higher Education to bind the State of Oregon;

(b) The term of the lease and the absence of any renewal provisions; and

(c) Any circumstances under which the lease may be terminated.

(6) The university shall manage and maintain all real property and facilities utilized by the university. Real property and facilities of the State of Oregon leased to the university pursuant to this section shall not be sold by the university but may be encumbered by the university. Such real property and facilities shall only be encumbered by the State of Oregon in accordance with state law and in a manner that would not impair the financial condition of the university or the rights of the holders of any obligations of the university issued or incurred under any master indenture or other financing agreement. [1995 c.162 §34; 1999 c.291 §18]

**353.110 Authority to acquire private property; condemnation.** The Oregon Health and Science University may acquire, by condemnation or otherwise, private property that is necessary or convenient in carrying out any power granted to the university. The right to acquire property by condemnation shall be exercised as provided by ORS chapter 35. [1995 c.162 §22; 2003 c.534 §14]

**353.117 Creation of tax-exempt entity by university.** (1) Pursuant to ORS 353.050, Oregon Health and Science University may create and maintain an entity that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, as amended, for the purpose of conducting clin-

ical care and practice and advancing other university missions by the faculty.

(2) Any entity created by the university under subsection (1) of this section shall be considered:

(a) A public employer for purposes of ORS 236.605 to 236.640 and ORS chapters 238 and 238A;

(b) A unit of local government for purposes of ORS 190.003 to 190.130;

(c) A public body for purposes of ORS 30.260 to 30.300 and 307.112;

(d) A public agency for purposes of ORS 200.090; and

(e) A public corporation for purposes of ORS 307.090. [2001 c.921 §26; 2003 c.86 §9; 2003 c.733 §75]

**353.120 Adoption of alcohol and drug abuse policy.** The Oregon Health and Science University shall adopt a comprehensive alcohol and drug abuse policy and implementation plan. [1995 c.162 §27]

**353.130 Public contracts.** The Oregon Health and Science University subscribes to the policy set forth under ORS 279.005 regarding public contracting, and shall develop contract policies that support openness, impartiality and competition in the awarding of contracts in accordance with that provision. The university subscribes to the intent of the social policies of ORS chapter 279 and shall develop contract policies that are appropriate to the university and are designed to encourage affirmative action, recycling, inclusion of art in public buildings, the purchase of services and goods from disabled individuals, the protection of workers through the payment of prevailing wages as determined by the Bureau of Labor and Industries, the provision of workers' compensation insurance to workers on contracts and the participation of emerging small businesses and businesses owned by women and minorities. [1995 c.162 §16]

**Note:** The amendments to 353.130 by section 264, chapter 794, Oregon Laws 2003, become operative March 1, 2005, and apply only to public contracts first advertised, but if not advertised then entered into, on or after March 1, 2005. See sections 336 and 337, chapter 794, Oregon Laws 2003. The text that is operative on and after March 1, 2005, is set forth for the user's convenience.

**353.130.** The Oregon Health and Science University subscribes to the policy set forth under ORS 279A.015 regarding public contracting, and shall develop contract policies that support openness, impartiality and competition in the awarding of contracts in accordance with that provision. The university subscribes to the intent of the social policies of ORS chapters 279, 279A, 279B and 279C and shall develop contract policies that are appropriate to the university and are designed to encourage affirmative action, recycling, inclusion of art in public buildings, the purchase of services and goods from disabled individuals, the protection of workers through the payment of prevailing wages as determined



by the Bureau of Labor and Industries, the provision of workers' compensation insurance to workers on contracts and the participation of emerging small businesses and businesses owned by women and minorities.

**353.140 Funding request; budget.** (1) By September 1 of each even-numbered year the Oregon Health and Science University shall submit to the Oregon Department of Administrative Services a funding request for each biennium. The Oregon Department of Administrative Services shall include and submit a university funding request to the Legislative Assembly as part of the Governor's biennial budget. Any such request approved by the Legislative Assembly shall be appropriated to the Oregon Department of Administrative Services for direct allocation to the university. The budget request to the Legislative Assembly shall include a presentation on tuition and student fee levels.

(2) The university budget shall be prepared in accordance with generally accepted accounting principles and adopted by the Oregon Health and Science University Board of Directors in accordance with ORS 192.610 to 192.710. [1995 c.162 §13]

**353.160 Audits.** Nothing in this chapter shall affect the constitutional duties and authority of the Secretary of State to audit public accounts. However, the Oregon Health and Science University shall conduct independent audits if such audits are considered advisable by the university. Such audits shall be subject to the exclusive discretion and control of the university and shall be subject to disclosure pursuant to ORS 192.410 to 192.505. [1995 c.162 §14]

**353.180 Student education records; creation; use; custody; disclosure.** Oregon Health and Science University may adopt policies relating to the creation, use, custody and disclosure, including access, of student education records of the university that are consistent with the requirements of applicable state and federal law. Whenever a student has attained 18 years of age or is attending the university, the permission or consent required of and the rights accorded to a parent of the student regarding education records shall thereafter only be required of and accorded to the student. [1995 c.162 §26; 1999 c.291 §8]

**353.190 Effect of student religious beliefs on admission and attendance.** (1) No student shall be refused admission to the Oregon Health and Science University or be expelled for the sole reason that, because of religious beliefs, the student is unable to attend classes on a particular day.

(2) Any student in the university who, because of religious beliefs, is unable to attend classes on a particular day shall be excused on that day from any examination,

study requirement or work requirement. However, at the student's own expense the student shall make up the examination, study requirement or work requirement missed because of the absence. [1995 c.162 §30]

**353.210 Physical access committee; members; duties.** (1) The Oregon Health and Science University shall convene a physical access committee to identify barriers to access by disabled persons at the university. The committee shall include, but not be limited to:

(a) One or more students who are disabled, or if there are no disabled students willing to participate, a disabled person who uses the university's facilities;

(b) One or more members of the faculty or staff who are disabled;

(c) The coordinator of disabled student services for the university;

(d) One or more administrators of the university; and

(e) One or more members of the physical plant staff of the university.

(2) The physical access committee shall present its findings and recommendations to the administration of the university, listing access needs and priorities for meeting those needs. These findings and recommendations shall identify the barriers to access that prevent disabled persons from meaningfully utilizing campus facilities related to instruction, academic support, assembly and residence life.

(3) In preparing budget requests for each biennium the university shall include amounts for capital improvement that will be applied to the substantial reduction and eventual elimination of barriers to access by disabled persons as identified by the physical access committee.

(4) Nothing in this section and ORS 185.155 and 341.937 requires the university to undertake projects for accessibility that are not otherwise required unless such projects are funded specifically by the Legislative Assembly. [1995 c.162 §29]

## PERSONNEL

**353.250 Alternative retirement programs.** Notwithstanding the provisions of ORS chapters 238 and 238A, the Oregon Health and Science University may offer to its employees, in addition to the Public Employees Retirement System, alternative retirement programs. [1995 c.162 §15; 1997 c.249 §111; 2003 c.733 §76]

**353.260 Personnel records; access; control; creation.** (1) Oregon Health and Science University may adopt policies gov-

erning access to university personnel records that are less than 25 years old.

(2) Policies adopted under subsection (1) of this section shall require that personnel records be subjected to restrictions on access unless the president of the university finds that the public interest in maintaining individual rights to privacy in an adequate educational environment would not suffer by disclosure of such records. Access to such records may be limited to designated classes of information or persons, or to stated times and conditions, or to both, but cannot be limited for records more than 25 years old.

(3) No rule or order adopted pursuant to this section shall deny to a faculty member full access to the member's personnel file or records kept by the university, except as provided in subsection (4)(d) and (e) of this section.

(4)(a) The files relating to the evaluation of a faculty member shall be kept in designated, available locations.

(b) Any evaluation received by telephone shall be documented in each of the faculty member's files by means of a written summary of the conversation with the names of the conversants identified.

(c) A faculty member shall be entitled to submit, for placement in the files, evidence rebutting, correcting, amplifying or explaining any document contained therein and other material that the member believes might be of assistance in the evaluation process.

(d) Letters and other information for a faculty member of the university submitted in confidence to the State Board of Higher Education or its institutions, schools or departments prior to July 1, 1975, shall be maintained in the files designated by paragraph (a) of this subsection. However, if a faculty member requests access to those files, the anonymity of the contributor of letters and other information obtained prior to July 1, 1975, shall be protected. The full text shall be made available, except that portions of the text that would serve to identify the contributor shall be excised by a faculty committee. Only the names of the contributors and the excised portions of the documents may be kept in a file other than the files designated by paragraph (a) of this subsection.

(e) Confidential letters and other information submitted to or solicited by the university after July 1, 1995, and prior to the employment of a prospective faculty member are exempt from the provisions of this paragraph. However, if the member is employed by the university, the confidential preemployment materials shall be placed in the files designated by paragraph (a) of this sub-

section. If a faculty member requests access to the member's files, the anonymity of the contributor of confidential preemployment letters and other preemployment information shall be protected. The full text shall be made available, except that portions of the text that would serve to identify the contributor shall be excised and retained in a file other than the files designated by paragraph (a) of this subsection.

(f) Classroom survey evaluations by students of a faculty member's classroom or laboratory performance shall be anonymous. The record of tabulated reports shall be placed in at least one of the files designated by paragraph (a) of this subsection. All survey instruments used to obtain evaluation data shall be returned to the faculty member.

(g) The university, when evaluating its employed faculty members, shall not solicit or accept letters, documents or other materials, given orally or in written form, from individuals or groups who wish their identity kept anonymous or the information they provide kept confidential.

(5) No policy or order adopted pursuant to this section limits the authority of the university to prepare, without identification of individual persons who have not consented thereto, statistical or demographic reports from personnel records.

(6) Any category of personnel records specifically designated as confidential pursuant to valid policies or orders as provided in this section shall not be deemed a public record for the purposes of ORS 192.420.

(7) As used in this section, "personnel records" means records containing information kept by the university concerning a faculty member and furnished by the faculty member or by others about the faculty member at the member's or at the university's request, including but not limited to information concerning discipline, membership activity, employment performance or other personal records of individual persons. [1995 c.162 §23; 1999 c.291 §9]

**353.270 Compensation of officers and employees; conflicts of interest.** (1) Oregon Health and Science University may authorize receipt of compensation for any officer or employee of the university from private or public resources, including but not limited to income from:

(a) Consulting;

(b) Appearances and speeches;

(c) Intellectual property conceived, reduced to practice or originated and therefore owned within the university;

(d) Providing services or other valuable consideration for a private corporation, indi-

vidual or entity, whether paid in cash or in kind, stock or other equity interest, or anything of value regardless of whether there is a licensing agreement between the university and the private entity;

(e) Performing public duties paid by private organizations, including university corporate affiliates, that augment an officer's or employee's publicly funded salary. Such income shall be authorized and received in accordance with policies established by the university; and

(f) Providing medical and other health services.

(2) The university shall not authorize compensation, as described in subsection (1) of this section, that, in the university's judgment, does not comport with the missions of the university or substantially interferes with an officer's or employee's duties to the university.

(3) Any compensation described and authorized under subsection (1) of this section shall be considered official salary, honorarium or reimbursement of expenses for purposes of ORS 244.040. If authorization or receipt of such compensation creates a potential conflict of interest, the potential conflict shall be reported in writing in accordance with policies of the university. The disclosure is a public record subject to public inspection.

(4) The university shall adopt standards governing employee outside employment and activities of employees, including potential conflicts of interest, as defined by the university and consistent with ORS 244.020, and the public disclosure thereof, and procedures for reporting and hearing potential or actual conflict of interest complaints. [1995 c.162 §24; 1999 c.291 §10]

**353.280 Faculty; status; powers.** The president and professors constitute the faculty of the Oregon Health and Science University and as such have the immediate government and discipline of it and the students therein. The faculty may, subject to the supervision of the Oregon Health and Science University Board of Directors, prescribe the course of study to be pursued at the university and the textbooks to be used. [1995 c.162 §28]

**353.290 Reductions in faculty; affirmative action plans and goals.** The Oregon Health and Science University shall consider and maintain affirmative action plans and goals when reductions in faculty and staff are required as a result of:

(1) Reductions in revenue that necessitate discontinuance of its educational program at its anticipated level;

(2) Elimination of classes due to decreased student enrollment; or

(3) Reduction in courses due to administrative decisions. [1995 c.162 §31]

**353.300 Political or sectarian test prohibited in appointment of faculty or employees.** No political or sectarian test shall ever be allowed or applied in the appointment of faculty and other employees of the Oregon Health and Science University. [1995 c.162 §25]

## FINANCE

### (Generally)

**353.330 Effect of law on bonds, certificates of participation or agreements for borrowing money; responsibility for payment; rights of holders of obligations.** (1) Nothing in chapter 162, Oregon Laws 1995, shall be construed in any way to impair the obligations or agreements of the State of Oregon or the State Board of Higher Education with respect to bonds, certificates of participation, financing agreements or other agreements for the borrowing of money issued prior to July 1, 1995, by the State of Oregon on behalf of the State Board of Higher Education for equipment or projects for Oregon Health and Science University. The university and the Oregon University System shall take all actions necessary to ensure full compliance with all indentures, resolutions, declarations, agreements and other documents issued with respect to the bonds, certificates of participation, financing agreements or other agreements for the borrowing of money issued prior to July 1, 1995, by the State of Oregon on behalf of the State Board of Higher Education for equipment or projects for the university. The Oregon University System and the university shall establish, in a written agreement that shall be subject to the approval of the State Treasurer, the responsibility of the university for the payment to the Oregon University System of moneys sufficient to pay when due all principal, interest and any other charges on bonds, certificates of participation, financing agreements or other agreements for the borrowing of money issued prior to July 1, 1995, by the State of Oregon on behalf of the State Board of Higher Education for equipment or projects for the university.

(2) Holders of obligations issued by the university on or after July 1, 1995, may be paid *pari passu* with the obligations issued by the State of Oregon on behalf of the State Board of Higher Education for equipment or projects for the university prior to July 1, 1995, from the rents, revenues, receipts, appropriations or other income of the university, but only to the extent that:

(a) Such holders have no rights, liens or other interests with respect to such rents, revenues, receipts, appropriations or other income of the university that are senior or superior to the rights granted to the holders of obligations issued prior to July 1, 1995, by the State of Oregon on behalf of the State Board of Higher Education for equipment or projects for the university; and

(b) The State Board of Higher Education, the Oregon Department of Administrative Services or the State of Oregon, acting for the benefit of such holders of obligations, is granted a lien or other security interest in the rents, revenues, receipts, appropriations or other income of the university that is not junior to and is at least pari passu with any lien or other security interest granted to the holders of obligations issued by the university.

(3) Any expenses, including legal expenses, judgments, liabilities and federal arbitrage and rebate penalties arising from the actions of the university, if incurred with respect to bonds, certificates of participation, financing agreements or other agreements for the borrowing of money issued prior to July 1, 1995, by the State of Oregon on behalf of the State Board of Higher Education for equipment or projects for the university, shall be paid when due by the university, subject to the university's right to reasonably contest such charges, judgments, liabilities or penalties. The university shall assist the Controller of the Oregon University System in making any necessary calculations and filing any necessary reports related to arbitrage and rebate on such indebtedness.

(4) Any amounts deposited with the State Treasurer, the Controller of the Oregon University System, the Oregon Department of Administrative Services or its designated agents in any debt service in reserve accounts for the debt service associated with any bonds, certificates of participation, financing agreements or other agreements for the borrowing of money issued prior to July 1, 1995, by the State of Oregon on behalf of the State Board of Higher Education for equipment or projects for the university shall remain with the State Treasurer, the Controller of the Oregon University System, the Oregon Department of Administrative Services or its designated agents until such time as the bonds, certificates of participation, financing agreements or other agreements for the borrowing of money for which such reserve accounts have been established have been retired or defeased. The university shall be credited with the investment earnings on such reserve accounts. [1995 c.162 §58; 1999 c.291 §11]

**Note:** Legislative Counsel has substituted "chapter 162, Oregon Laws 1995," for the words "this Act" in

section 58, chapter 162, Oregon Laws 1995, compiled as 353.330. Specific ORS references have not been substituted pursuant to 173.160. These sections may be determined by referring to the 1995 Comparative Section Table located in Volume 18 of ORS.

### (Bonds)

**353.340 Issuance and sale of revenue bonds by university.** Oregon Health and Science University may from time to time issue and sell revenue bonds in accordance with the provisions of the Uniform Revenue Bond Act contained in ORS 288.805 to 288.945. However, the provisions contained in ORS 288.815 shall not apply to revenue bonds issued by the university. Such revenue bonds shall not in any manner nor to any extent be a general obligation of the university nor a charge upon any revenues or property of the university not specifically pledged thereto. No obligation of any kind incurred under ORS 288.805 to 288.945 shall be, or be considered, an indebtedness of the State of Oregon. [1995 c.162 §59; 1999 c.291 §12]

**353.350 Revenue bonds considered bonds or obligations of political subdivision.** Revenue bonds issued by the Oregon Health and Science University pursuant to ORS 288.805 to 288.945 shall be considered to be bonds or obligations of a political subdivision of the State of Oregon for the purposes of all laws of the state. [1995 c.162 §60]

**353.360 Authority of university to issue refunding bonds and advance refunding bonds.** Refunding bonds and advance refunding bonds of the same character and tenor as those replaced thereby may be issued by the Oregon Health and Science University pursuant to ORS 288.592 to 288.695 as applicable and in accordance with the laws of the state. [1995 c.162 §61]

**353.370 Notice to Legislative Assembly required if shortfall in moneys exists for payment of amounts under bonds, certificates of participation or agreements for borrowing money.** In addition to, and not in limitation of, the means of satisfying state general obligation bond obligations under ORS 291.445, Oregon Health and Science University, promptly upon the discovery of any shortfall in moneys available to the university for the payment when due of amounts under any bonds, certificates of participation, financing agreements or other agreements for the borrowing of moneys issued prior to July 1, 1995, by the State of Oregon on behalf of the State Board of Higher Education for equipment or projects for the university, shall notify in writing the Legislative Assembly, or if the Legislative Assembly is not in session, the Emergency Board, of the existence and amount of the shortfall. The Legislative Assembly or the Emergency Board, as the case may be, may provide funds

to satisfy the payment of any such amount. By enacting this provision, the Legislative Assembly acknowledges its current intention to provide, from funds other than those appropriated or otherwise made available to the Oregon University System, funds to pay such amount. However, except as may be required by the Oregon Constitution or ORS 291.445, neither the Legislative Assembly nor the Emergency Board shall have any legal obligation to provide funds under this section. [1995 c.162 §61a; 1999 c.291 §13]

### (Financial Agreements)

#### **353.380 Definitions for ORS 353.380 to 353.420.** As used in ORS 353.380 to 353.420:

(1) "Credit enhancement agreement" means any agreement or contractual relationship between the Oregon Health and Science University and any bank, trust company, insurance company, surety bonding company, pension fund or other financial institution providing additional credit on or security for a financing agreement or certificates of participation authorized by ORS 353.380 to 353.420.

(2) "Financing agreement" means a lease-purchase agreement, an installment sale agreement, a loan agreement, note agreement, short-term promissory notes, commercial papers, lines of credit or similar obligations or any other agreement to finance real or personal property that is or will be owned and operated by the university, or to refinance previously executed financing agreements.

(3) "Personal property" means tangible personal property, software and fixtures.

(4) "Property rights" means, with respect to personal property, the rights of a secured party under ORS chapter 79, and, with respect to real property, the rights of a trustee or lender under a lease authorized by ORS 353.410 (4).

(5) "Software" means software and training and maintenance contracts related to the operation of computing equipment. [1995 c.162 §17; 2001 c.445 §174]

**353.390 University authorized to enter into financing agreements; limitations.** Oregon Health and Science University may enter into financing agreements in accordance with ORS 353.380 to 353.420, upon such terms as the university finds to be advantageous. Amounts payable by the university under a financing agreement shall be limited to funds specifically pledged, budgeted for or otherwise made available by the university. If there are insufficient available funds to pay amounts due under a financing agreement, the lender may exercise any property rights that the university has

granted to it in the financing agreement against the property that was purchased with the proceeds of the financing agreement, and may apply the amounts so received toward payments scheduled to be made by the university under the financing agreement. [1995 c.162 §18; 1999 c.291 §14]

#### **353.400 Delegation of board authority.**

The Oregon Health and Science University Board of Directors may delegate to any board member, officer or employee of the Oregon Health and Science University the authority to determine maturity dates, principal amounts, redemption provisions, interest rates or methods for determining variable or adjustable interest rates, denominations and other terms and conditions of such obligations that are not appropriately determined at the time of enactment or adoption of the authorizing resolution. The board may also delegate entering into financing agreements or any other instruments authorized by law. This delegated authority shall be exercised subject to applicable requirements of law and such limitations and criteria as may be set forth in the authorizing resolution. [1995 c.162 §19]

**353.410 University powers regarding financing agreements and credit enhancement agreements.** Oregon Health and Science University may:

(1) Enter into agreements with third parties to hold financing agreement proceeds, payments and reserves as security for lenders, and to issue certificates of participation in the right to receive payments due from the university under a financing agreement. Amounts so held shall be invested at the direction of the Oregon Health and Science University Board of Directors. Interest earned on any investments held as security for a financing agreement may, at the option of the board, be credited to the accounts held by the third party and applied in payment of sums due under a financing agreement.

(2) Enter into credit enhancement agreements for financing agreements or certificates of participation, provided that such credit enhancement agreements shall be payable solely from funds specifically pledged, budgeted for or otherwise made available by the university and amounts received from the exercise of property rights granted under such financing agreements.

(3) Use financing agreements to finance the costs of acquiring or refinancing real or personal property, plus the costs of reserves, credit enhancements and costs associated with obtaining the financing.

(4) Grant leases of real property with a trustee or lender. Such leases may be for a term that ends on the date on which all amounts due under a financing agreement

have been paid or provision for payment has been made, or up to 20 years after the last scheduled payment under a financing agreement, whichever is later. Such leases may grant the trustee or lender the right to evict the university and exclude it from possession of the real property for the term of the lease if the university fails to pay when due the amounts scheduled to be paid under a financing agreement, or otherwise defaults under a financing agreement. Upon default, the trustee or lender may sublease the land to third parties and apply any rentals toward payments scheduled to be made under a financing agreement.

(5) Grant security interests in personal property to trustees or lenders.

(6) Make pledges for the benefit of trustees and lenders.

(7) Purchase fire and extended coverage or other casualty insurance for property that is acquired or refinanced with proceeds of a financing agreement, assign the proceeds thereof to a lender or trustee to the extent of their interest, and covenant to maintain such insurance while the financing agreement is unpaid, so long as available funds are sufficient to purchase such insurance. [1995 c.162 §20; 1999 c.291 §15]

**353.420 Effect of financing agreement on tax status.** A lease or financing agreement under ORS 353.380 to 353.420 shall not cause property to be subject to property taxation and shall be disregarded in determining whether property is exempt from taxation under ORS chapter 307. [1995 c.162 §21]

## PROGRAMS

**353.440 Coordination of programs with Oregon University System.** The Legislative Assembly finds that:

(1) Institutions in the Oregon University System and other educational sectors have academic programs that are related to or integrated with the programs of Oregon Health and Science University.

(2) It is in the best interest of the state that a coordinated approach be taken to these related and integrated academic programs.

(3) In order to best ensure the continued harmony of such academic programs, the university and the Oregon University System shall coordinate such programs and shall advise each other of the following proposed changes to such academic programs:

(a) Creation or significant revision, such as a merger or closure, of degree programs;

(b) Creation or significant revision, such as a merger or closure, of schools; and

(c) Creation or significant revision of major academic policies.

(4) In order to further the coordination described by this section, university officers shall maintain a role in the appropriate committees of the State Board of Higher Education and the Oregon University System. [1995 c.162 §12; 1999 c.291 §16]

### **353.450 Area Health Education Center program; continuing education programs for physicians in rural areas; emergency medical technician training in rural areas.**

(1) It is the finding of the Legislative Assembly that there is need to provide programs that will assist a rural community to recruit and retain physicians, physician assistants and nurse practitioners. For that purpose:

(a) The Legislative Assembly supports the development at the Oregon Health and Science University of an Area Health Education Center program as provided for under the United States Public Health Service Act, Section 781.

(b) The university shall provide continuing education opportunities for persons licensed to practice medicine under ORS chapter 677 who practice in rural areas of this state in cooperation with the respective professional organizations, including the Oregon Medical Association and the Oregon Society of Physician Assistants.

(c) The university shall seek funding through grants and other means to implement and operate a fellowship program for physicians, physician assistants and nurse practitioners intending to practice in rural areas.

(2) With the moneys transferred to the Area Health Education Center program by ORS 442.625, the program shall:

(a) Establish educational opportunities for emergency medical technicians in rural counties;

(b) Contract with educational facilities qualified to conduct emergency medical training programs using a curriculum approved by the Emergency Medical Services and Trauma Systems Program; and

(c) Review requests for training funds with input from the State Emergency Medical Service Committee and other individuals with expertise in emergency medical services. [Formerly 352.095; 1999 c.1056 §8]

### **353.460 Center for Research on Occupational and Environmental Toxicology.**

(1) Subject to the provisions of sections 13 and 16, chapter 770, Oregon Laws 1985, there is created a Center for Research on Occupational and Environmental Toxicology. The

Oregon Health and Science University shall administer the center.

(2) The purposes of the center may include, but are not limited to, reducing the incidence of disease and reducing the costs and dangers to employers and employees associated with occupational disease. Specific functions of the center may include:

(a) Basic and applied research into the incidence and causes of occupational diseases.

(b) Epidemiology and other data collection.

(c) Design of programs for clinical management of occupational diseases.

(d) Education and training programs.

(3) Although the output of the center's programs is intended to be of statewide use for employers, employees, health professionals and the public concerning occupational disease, it is not intended that the center shall assume any of the responsibilities or functions of the physical rehabilitation facility operated by the Director of the Department of Consumer and Business Services. The center may offer programs of diagnosis and treatment of occupational disease, but it is expected that such services shall be compensable under ORS chapter 656. [Formerly 352.073]

**353.470 Funding of center.** It is expected that the Center for Research on Occupational and Environmental Toxicology will operate, on an ongoing basis, from funds provided by the Department of Consumer and Business Services, in addition to any gifts, grants or donations made to carry out the activities of the center. Oregon Health and Science University is not expected to provide funds for operation of the center from any other sources of funds for operation of the university. [Formerly 352.083; 1999 c.291 §20]

**353.480 Pediatric dental residency program.** Subject to the availability of funding, the Oregon Health and Science University shall establish the pediatric dental residency program only to the extent that funds are appropriated to the Oregon Department of Administrative Services for the Oregon Health and Science University public corporation to establish the program under section 1, chapter 1083, Oregon Laws 1999. [1999 c.1083 §2]

**Note:** 353.480 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 353 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

## OREGON OPPORTUNITY PROGRAM

**353.550 Definitions for ORS 353.550 to 353.563 and sections 10, 12, 14, 16 and 18, chapter 921, Oregon Laws 2001.** As used in ORS 353.550 to 353.563 and sections 10, 12, 14, 16 and 18, chapter 921, Oregon Laws 2001:

(1) "Bond-related costs" means:

(a) The costs and expenses of issuing, administering and maintaining bonds issued under ORS 353.550 to 353.563 and sections 10, 12, 14, 16 and 18, chapter 921, Oregon Laws 2001, and the bond program under ORS 353.550 to 353.563 and sections 10, 12, 14, 16 and 18, chapter 921, Oregon Laws 2001, including but not limited to:

(A) Paying or redeeming the bonds;

(B) Paying amounts due in connection with credit enhancement or any reserve instruments; and

(C) Paying the administrative costs and expenses of the State Treasurer and the Oregon Department of Administrative Services, including costs of consultants, attorneys and advisors retained by the State Treasurer or the Oregon Department of Administrative Services for the bonds or the bond program;

(b) The costs of funding any bond reserves;

(c) Capitalized interest for the bonds;

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

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

(2) "Capital costs" means the costs of acquiring, constructing, improving or equipping capital projects or other capital expenditures necessary or desirable to create, develop, maintain or directly or indirectly finance the Oregon Opportunity program.

(3) "Indirect financing" means financing capital costs of Oregon Health and Science University unrelated to the Oregon Opportunity program so that an equivalent amount of moneys may be used to pay capital costs and noncapital costs of the Oregon Opportunity program.

(4) "Master Settlement Agreement" means the Master Settlement Agreement, and related documents, entered into on November 23, 1998, by the State of Oregon and leading United States tobacco products manufacturers.

(5) "Noncapital costs" means the costs of programs, scholarships, endowments, re-

search infrastructure and recruitment of scientists and researchers, or other noncapital costs or expenses, necessary or desirable to create, develop, maintain or directly or indirectly finance the Oregon Opportunity program.

(6) "Oregon Opportunity program" means the program created by Oregon Health and Science University pursuant to ORS 353.559. [2001 c.921 §3]

**353.553 Short title.** ORS 353.550 to 353.563 and sections 10, 12, 14, 16 and 18, chapter 921, Oregon Laws 2001, shall be known and may be cited as the Oregon Opportunity Act. [2001 c.921 §2]

**353.556 Purpose; policy; findings; intent.** (1) The purpose of ORS 353.550 to 353.563 and sections 10, 12, 14, 16 and 18, chapter 921, Oregon Laws 2001, is to directly or indirectly finance Oregon Health and Science University's Oregon Opportunity program.

(2) It is the policy of the State of Oregon that, in order to capture the health and economic benefits of the coming biotechnology boom for all Oregonians, the state enter into a partnership with Oregon Health and Science University to enhance medical research.

(3) The Legislative Assembly finds that:

(a) Oregon should take advantage of research breakthroughs in biomedicine, health care and technology that are opening an unprecedented new era. Research advances will someday show scientists how to block or replace genes that cause disease. The state should seize the opportunity to provide all Oregonians access to leading edge therapies and procedures.

(b) Research breakthroughs are expected to fuel tremendous economic growth, and Oregon must be poised to capitalize on these breakthroughs. Biotechnology is likely to be the next great economic engine in the United States, and the state should take positive action to ensure Oregon's participation in this emerging and important industry. A public commitment to biomedical and related research in Oregon is necessary to drive the formation, expansion and proliferation of biotechnology companies that will commercialize myriad new treatments, medications, biomedical equipment and other technology.

(c) The state should support Oregon Health and Science University in its efforts to continue to grow as a research power and an economic engine. Biomedical and technology research is necessary to create intellectual property, which serves as the raw material for biotechnology companies. The state should assist Oregon Health and Sci-

ence University in securing the needed infrastructure to attain a critical mass of research talent in order to maximize the number of commercially viable discoveries.

(d) There is a limited window of opportunity to capitalize on the surge in biotechnology growth, stemming from the completion of the United States Human Genome Project.

(4) It is the intent of the Legislative Assembly that:

(a) Oregon Health and Science University pursue the Oregon Opportunity program in a manner that is consistent with the public missions stated in ORS 353.030 (2), which directs the university to strive for excellence in education, research, clinical practice, scholarship and community service while maintaining compassion, personal and institutional integrity and leadership in carrying out its missions;

(b) The Oregon Opportunity program benefit all Oregonians through increased medical research and sustainable economic development from biotechnology and related fields; and

(c) The State Treasurer shall issue pursuant to a grant agreement, as soon as practicable, general obligation bonds during the 2001-2003 and 2003-2005 biennia in an aggregate principal amount that produces net proceeds for the Oregon Opportunity program in an amount equal to \$200 million plus the amount of any costs and expenses of issuing the bonds.

(5) To maximize the benefits of low interest tax-exempt bonds, costs of the Oregon Opportunity program may be financed directly or indirectly by the state. [2001 c.921 §4; 2001 c.921 §4a]

**353.559 Creation; university duties; expenditure of proceeds.** (1) Oregon Health and Science University shall create the Oregon Opportunity program to usher in a new era of breakthroughs in health care and biotechnology for Oregonians. Through the program, the university shall invest in facilities, endowments, research infrastructure, recruitment of scientists and researchers, scholarships and programs including but not limited to:

(a) Research on cancer, heart disease, multiple sclerosis, Parkinson's disease and Alzheimer's disease;

(b) Research on autism spectrum disorder;

(c) Children's health and women's health;

(d) Hearing research;

(e) Advanced eye research;

(f) Aging research;

(g) Rural health initiatives;



(h) Research on public health, health care ethics, health information science and health outcomes; and

(i) Other health care, biotechnology and related research.

(2) Oregon Health and Science University shall dedicate:

(a) Not less than five percent of the university's share of the net proceeds of royalties and licenses attributable to the Oregon Opportunity program to meeting the university's missions of providing access to medical services to people who are underserved and promoting further study in the areas of public health, health care ethics, health information science and health outcomes. The proceeds shall be distributed as follows:

(A) 50 percent to providing access to medical services to people who are underserved; and

(B) 50 percent to establishing endowments to support research on public health, health care ethics, health information science and health outcomes.

(b) Not less than five percent of the university's share of the net proceeds of royalties and licenses attributable to the Oregon Opportunity program to the payment of bond-related costs then due and payable by the state and deposit those amounts into the Oregon Health and Science University Bond Fund established in section 14, chapter 921, Oregon Laws 2001. If the dedicated amount exceeds the amount necessary to pay bond-related costs, the excess shall be deposited in the General Fund.

(3) Notwithstanding subsection (2) of this section, any obligation of the university to dedicate or distribute a share of the net proceeds of royalties and licenses attributable to the Oregon Opportunity program under subsection (2) of this section:

(a) Shall be subordinate to the university's obligation to pay obligations issued under the university's Master Trust Indenture, dated December 1, 1995, as amended or supplemented; and

(b) Does not constitute a lien on the gross revenues of the university as "Lien" and "Gross Revenues" are defined in the Master Trust Indenture. [2001 c.921 §5]

**Note:** Section 18, chapter 921, Oregon Laws 2001, provides:

**Sec. 18. General obligation bonds issued to finance program.** (1) The State Treasurer, pursuant to Article XI-L of the Oregon Constitution, after the grant agreement described in subsection (9) of this section is entered into, may issue, sell and deliver general obligation bonds in one or more series at different times during the 2001-2003 and 2003-2005 biennia for the purposes of directly or indirectly financing the capital costs of the Oregon Opportunity program. The State Treasurer may also issue general obligation or revenue re-

funding bonds to refund general obligation bonds issued under this section. The State Treasurer shall issue the general obligation bonds and shall determine the terms and conditions.

(2) The State Treasurer may issue the general obligation bonds authorized by this section as soon as practicable after the operative date of this section [June 20, 2002], and after entering into the grant agreement described in subsection (9) of this section, on a date that is selected by mutual agreement of the State Treasurer and Oregon Health and Science University.

(3) The State Treasurer may issue general obligation bonds on a federally tax-exempt basis.

(4) In connection with the issuance of general obligation bonds under this section, the State Treasurer or the Director of the Oregon Department of Administrative Services, as directed by the State Treasurer, may:

(a) Establish the maturity schedules, interest rates, including fixed or adjustable interest rate terms, tender or redemption provisions, provisions for capitalized interest and other terms of any general obligation bonds issued under this section;

(b) Provide that general obligation bonds may be issued in different series and at different times, subject to subsection (2) of this section;

(c) Obtain credit enhancement to provide additional security or liquidity for general obligation bonds issued under this section, or to provide funding for all or any portion of any debt service reserve account established with respect to such bonds;

(d) Appoint and enter into appropriate contracts with bond counsel in accordance with ORS 288.523 and a bond trustee and retain and enter into appropriate contracts for the services of financial consultants, underwriters, paying agents, legal counsel and other professional service providers in connection with the issuance and administration of such general obligation bonds;

(e) Enter into security documents with a bond trustee and deposit funds with the bond trustee for the benefit of bondholders and the providers of credit enhancement;

(f) Enter into covenants for the benefit of bondholders and the providers of credit enhancement to improve the security of bondholders or providers of credit enhancement, or to maintain the tax-exempt status of interest payable on bonds or credit enhancement. Such covenants may include, but are not limited to, covenants regarding the issuance of additional bonds, and the priority of payment of the general obligation bonds;

(g) Establish one or more debt service reserve accounts for the purpose of paying bond debt service, which debt service accounts may be funded out of the proceeds derived from the issuance and sale of such bonds;

(h) Establish such funds or accounts as may be necessary or desirable to secure and pay for such general obligation bonds or for any purpose reasonably related thereto;

(i) Apply the proceeds of the general obligation bonds to pay any costs and expenses of issuing or administering the general obligation bonds; and

(j) Establish a process to allow, if prepayments are made under the Master Settlement Agreement by any of the United States tobacco products manufacturers, the state to retain any excess funds in a reserve account held by the bond trustee or an account held by the State Treasurer, and to apply the excess funds to debt service on bonds issued under this section in future years corresponding to the prepayment period.

(5) Except as described in subsection (9) of this section and section 5 (2)(b) of this 2001 Act [353.559 (2)(b)], Oregon Health and Science University shall have

no obligation to pay debt service on any general obligation bonds issued under this section or to pay any bond-related costs. A holder of bonds or other similar obligations issued under this section may not have the right to compel the exercise of the ad valorem taxing power of the state to pay principal and interest on such bonds or other similar obligations.

(6) Notwithstanding ORS 286.505 to 286.545, general obligation bonds may be issued under this section during the 2001-2003 and 2003-2005 biennia in an aggregate principal amount that produces net proceeds for the Oregon Health and Science University in an amount that equals the sum of \$200 million plus the amount of any costs and expenses of issuing the bonds as determined by the State Treasurer. Any general obligation bonds issued under this section shall be repaid over a period of 20 years or less.

(7)(a) Proceeds from the sale of general obligation bonds under this section are for the purpose of financing the Oregon Opportunity program and may be used for any of the following:

(A) Financing capital costs of the Oregon Opportunity program.

(B) Paying bond-related costs.

(C) Indirectly financing capital costs of Oregon Health and Science University unrelated to the Oregon Opportunity program if Oregon Health and Science University demonstrates to the State Treasurer that Oregon Health and Science University will use an equivalent amount of moneys to pay capital costs and noncapital costs of the Oregon Opportunity program and if the State Treasurer determines that such financing will permit the general obligation bonds issued under this section to be issued on a federally tax-exempt basis and that the state will thereby achieve substantial savings on interest rates.

(b) Proceeds from the sale of general obligation bonds under this section may not be used for operating costs.

(8) Oregon Health and Science University shall prepare an annual report that outlines expenditures authorized in subsection (7) of this section. Oregon Health and Science University shall submit the report to the State Treasurer.

(9) Prior to the initial issuance of any general obligation bonds under this section, Oregon Health and Science University and the State Treasurer shall enter into a grant agreement in which the university agrees to:

(a) Comply with all requirements to protect the tax-exempt status of any general obligation bonds issued under this section;

(b) Dedicate a percentage of the university's share of the net proceeds of royalties and licenses attributable to the Oregon Opportunity program pursuant to section 5 (2)(b) and (3) of this 2001 Act [353.559 (2)(b) and (3)]; and

(c) Other terms and conditions as the State Treasurer may require. [2001 c.921 §18]

**Note:** Section 10, chapter 921, Oregon Laws 2001, provides:

**Sec. 10. Preparation for issuance, sale and delivery of bonds.** Prior to the operative dates of sections 8 [June 1, 2002] and 18 [June 20, 2002] of this 2001 Act, the State Treasurer and Oregon Health and Science University shall take any necessary action, including preparing and entering into the grant agreements described in section 8 (13) of this 2001 Act and section 18 (9) of this 2001 Act, to prepare for the issuance, sale and delivery of:

(1) Revenue bonds under section 8 of this 2001 Act after the operative date of section 8 of this 2001 Act; and

(2) General obligation bonds under section 18 of this 2001 Act after the operative date of section 18 of this 2001 Act. [2001 c.921 §10]

**Note:** Section 12, chapter 921, Oregon Laws 2001, provides:

**Sec. 12. Oregon Opportunity Fund.** (1) The Oregon Opportunity Fund is established in the State Treasury separate and distinct from the General Fund. The net proceeds from the sale of general obligation bonds issued under section 18 of this 2001 Act shall be credited to the Oregon Opportunity Fund. Investment earnings received on moneys in the Oregon Opportunity Fund shall be credited to the Oregon Opportunity Fund.

(2) The Oregon Opportunity Fund is continuously appropriated to the Oregon Department of Administrative Services for payment pursuant to the grant agreement under section 18 (9) of this 2001 Act to Oregon Health and Science University for financing the Oregon Opportunity program as specified in section 18 (7) of this 2001 Act.

(3) The Oregon Department of Administrative Services, as directed by the State Treasurer in accordance with the grant agreement, shall disburse amounts in the Oregon Opportunity Fund to Oregon Health and Science University. [2001 c.921 §12; 2001 c.921 §13]

**Note:** Section 14, chapter 921, Oregon Laws 2001, provides:

**Sec. 14. Oregon Health and Science University Bond Fund.** (1) The Oregon Health and Science University Bond Fund is established in the State Treasury separate and distinct from the General Fund. The Oregon Health and Science University Bond Fund shall consist of:

(a) The amounts of revenues from the Master Settlement Agreement as determined by the Oregon Department of Administrative Services, under the direction of the State Treasurer that are necessary to pay principal, interest and premium scheduled to be paid in that fiscal year on the general obligation bonds issued under section 18 of this 2001 Act;

(b) The amounts deposited pursuant to the grant agreement under section 18 (9) of this 2001 Act;

(c) Any appropriated or allocated funds;

(d) Investment earnings received on moneys in the Oregon Health and Science University Bond Fund; and

(e) The amounts of accrued interest paid on the bonds upon bond settlement.

(2) The Oregon Health and Science University Bond Fund is continuously appropriated to the Oregon Department of Administrative Services, as directed by the State Treasurer, for paying, when due, the principal of and the interest and premium, if any, on outstanding general obligation bonds, for funding general obligation bond reserves and for paying amounts due in connection with any instrument authorized by section 18 (4)(c) of this 2001 Act.

(3) The Oregon Department of Administrative Services shall use amounts in the Oregon Health and Science University Bond Fund to pay, when due, the principal and the interest and premium, if any, on any general obligation bonds, to fund reserves and to pay amounts due under instruments authorized by section 18 (4)(c) of this 2001 Act. [2001 c.921 §14; 2001 c.921 §15]

**Note:** Section 16, chapter 921, Oregon Laws 2001, provides:

**Sec. 16. Oregon Health and Science University Bond Administrative Fund.** (1) The Oregon Health and Science University Bond Administrative Fund is established in the State Treasury separate and distinct from the General Fund. The Oregon Health and Science University Bond Administrative Fund shall consist of:

(a) The amounts of unobligated net general obligation bond proceeds as determined by the Oregon De-

partment of Administrative Services, after depositing required amounts in the Oregon Opportunity Fund and the Oregon Health and Science University Bond Fund;

(b) The proceeds of any general obligation bonds issued to pay bond-related costs;

(c) Any appropriated or allocated funds; and

(d) Investment earnings received on moneys in the Oregon Health and Science University Bond Administrative Fund.

(2) The Oregon Health and Science University Bond Administrative Fund is continuously appropriated to the Oregon Department of Administrative Services, as directed by the State Treasurer, for paying costs and expenses of issuing the general obligation bonds issued under section 18 of this 2001 Act.

(3) The Oregon Department of Administrative Services may use amounts in the Oregon Health and Science University Bond Administrative Fund to pay costs and expenses of issuing the general obligation bonds. Amounts in the fund shall be disbursed upon the written request of the Director of the Oregon Department of Administrative Services. [2001 c.921 §16; 2001 c.921 §17]

**353.563 Task force on program impact on university missions.** (1) There is established a task force at Oregon Health and Science University to review the impact of the Oregon Opportunity program on the ability of the university to carry out its missions of teaching, patient care, research and community service.

(2) The review by the task force shall include but not be limited to:

(a) Whether the Oregon Opportunity program competes with or enhances the teaching, patient care, research and community service missions of the university;

(b) Whether new discoveries increase the cost of health care or make health care more efficient;

(c) Whether there are additional economic implications of technological advances in health care;

(d) How access to high-quality clinical care can be maintained for Oregon's vulnerable populations during the implementation of the Oregon Opportunity program;

(e) Whether the university's high standard of clinical care and the university's commitment to vulnerable populations is compromised or enhanced; and

(f) Whether animal research at the university is being done in an ethical and humane manner.

(3) The task force shall consist of:

(a) Two members who are members of the House of Representatives, appointed by the Speaker of the House of Representatives;

(b) Two members who are members of the Senate, appointed by the President of the Senate;

(c) Six members from the university, appointed by the president of the university, who represent:

(A) The ethics center;

(B) Academic programs;

(C) Patient care programs;

(D) Community service and outreach programs;

(E) Financial administration; and

(F) Research programs; and

(d) Three public members, appointed by the Governor, who represent:

(A) The public health and health policy community;

(B) Advocates for persons who are medically underserved; and

(C) The medical community.

(4) The term of office of each legislative member is two years and the term of office of each nonlegislative member is four years. Each member serves at the pleasure of the appointing authority. Before the expiration of the term of a member, the appointing authority shall appoint a successor. A member is eligible for reappointment. If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective for the unexpired term.

(5) A nonlegislative member of the task force is entitled to compensation and expenses as provided in ORS 292.495. A legislative member of the task force is entitled to compensation and expenses as provided in ORS 171.072 from funds appropriated to the Legislative Assembly for such purposes.

(6) The task force shall select one of its members as chairperson and another as vice chairperson, for such terms and with duties and powers necessary for the performance of the functions of such offices as the task force determines.

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

(8) The task force shall schedule public hearings for the purpose of gathering information from interested parties. The task force shall meet at times and places specified by the call of the chairperson or of a majority of the members of the task force.

(9) The university shall provide staff support to the task force.

(10) Prior to July 1 of each even-numbered year, the task force shall report its findings from the review to the Governor and any interim legislative committees on human resources. [2001 c.921 §6]

**Note:** Section 7, chapter 921, Oregon Laws 2001, provides:

**Sec. 7.** Notwithstanding the term of office specified by section 6 of this 2001 Act [353.563], of the members first appointed to the task force under section 6 of this 2001 Act:

- (1) By the president of the university:
- (a) Three shall serve for terms ending June 30, 2003.
- (b) Three shall serve for terms ending June 30, 2005.
- (2) By the Governor:
- (a) One shall serve for a term ending June 30, 2003.
- (b) Two shall serve for terms ending June 30, 2005. [2001 c.921 §7]

### NURSING EDUCATION PROGRAM GRANTS

**353.600 Definitions for ORS 353.600 to 353.612.** As used in ORS 353.600 to 353.612:

- (1) "Committee" means the Oregon Nursing Shortage Coalition Committee created in ORS 353.606.
- (2) "Post-secondary education institution" means:
- (a) A state institution under the direction of the State Board of Higher Education;
- (b) A community college operated under ORS chapter 341;
- (c) A school or division of Oregon Health and Science University; or
- (d) An Oregon-based, generally accredited, not-for-profit private institution of higher education. [2003 c.697 §2]

**353.603 Grant distribution; administrative expenses; contributions.** (1) Oregon Health and Science University shall distribute grants to post-secondary education institutions to support nursing education programs based on the selections of the Oregon Nursing Shortage Coalition Committee and in accordance with appropriate university policies and procedures. If the university is not able to distribute a grant to a post-secondary education institution selected by the committee, the university shall report to the committee the reason for not distributing the grant.

(2) Grants distributed under this section to a community college or state institution of higher education may be based on an intergovernmental agreement entered into by Oregon Health and Science University and the college or institution.

(3) Oregon Health and Science University may not use more than five percent of the amount received from the Nursing Education Grant Fund established in ORS 353.612 for the grant program in any biennium for administrative expenses incurred in administering ORS 353.600 to 353.612.

(4) Oregon Health and Science University may accept contributions of funds and assistance from the United States Government or its agencies, or from any other source, public or private, and agree to con-

ditions placed on the funds not inconsistent with the purposes of ORS 353.600 to 353.612. The university shall use funds and assistance received under this subsection for grants distributed under this section or for administering ORS 353.600 to 353.612.

(5) Oregon Health and Science University shall deposit moneys received by the university for purposes of ORS 353.600 to 353.612 in the Nursing Education Grant Fund. The total amount of grants distributed under this section may not exceed the amount of moneys available for distribution in the fund. [2003 c.697 §3]

**353.606 Oregon Nursing Shortage Coalition Committee.** (1) There is created the Oregon Nursing Shortage Coalition Committee.

(2) The committee consists of 10 members, as follows:

(a) Two members who represent the Oregon State Board of Nursing appointed by the board.

(b) Two members who represent the Northwest Organization of Nurse Executives appointed by the Oregon State Board of Nursing from a list of persons submitted to the board by the Northwest Organization of Nurse Executives.

(c) Two members who represent the Oregon Nurses Association appointed by the Oregon State Board of Nursing from a list of persons submitted to the board by the Oregon Nurses Association.

(d) One member appointed by the Oregon State Board of Nursing who represents Oregon-based, generally accredited, not-for-profit private institutions of higher education from a list of persons submitted to the board by the Oregon Independent Colleges Association.

(e) Two members appointed by the Commissioner for Community College Services from a list of persons submitted to the commissioner by the Oregon Community College Association.

(f) One member who represents Oregon Health and Science University appointed by the university.

(3) When appointing members to the committee, the Oregon State Board of Nursing, the Commissioner for Community College Services and Oregon Health and Science University shall ensure that there is at least one member from each of the following areas of the state:

- (a) Rural western Oregon.
- (b) Coastal Oregon.
- (c) Eastern Oregon.
- (d) Urban areas.

(4) The term of office of each member is four years, but a member serves at the pleasure of the appointing authority. Before the expiration of the term of a member, the appointing authority shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective for the unexpired term.

(5) The committee shall elect one of its members to serve as chairperson and another to serve as vice chairperson, for the terms and with the duties and powers necessary for the performance of the functions of such offices as the committee determines.

(6) The committee shall meet at times and places specified by the call of the chairperson or of a majority of the members of the committee.

(7) A majority of the members of the committee constitutes a quorum for the transaction of business.

(8) Members of the committee are entitled to actual and necessary travel expenses in the manner and amounts provided for in ORS 292.495. Claims for expenses incurred in performing functions of the committee shall be paid out of funds received by Oregon Health and Science University for that purpose.

(9) Oregon Health and Science University shall provide staff support to the committee. [2003 c.697 §4]

**Note:** Section 5, chapter 697, Oregon Laws 2003, provides:

**Sec. 5.** Notwithstanding the term of office specified by section 4 of this 2003 Act [353.606], of the members first appointed to the Oregon Nursing Shortage Coalition Committee under section 4 of this 2003 Act:

(1) By the Oregon State Board of Nursing:

(a) Two shall serve for terms ending June 30, 2005.

(b) Two shall serve for terms ending June 30, 2006.

(c) Three shall serve for terms ending June 30, 2007.

(2) By the Commissioner for Community College Services:

(a) One shall serve for a term ending June 30, 2005.

(b) One shall serve for a term ending June 30, 2007. [2003 c.697 §5]

**353.609 Duties of committee; grant criteria; use of grant funds.** (1) The Oregon Nursing Shortage Coalition Committee shall:

(a) Adopt criteria for awarding grants to post-secondary education institutions under this section;

(b) Based on the criteria, select post-secondary education institutions to receive grants to support nursing education programs; and

(c) Determine the amounts of the grants to be distributed under ORS 353.603.

(2) The goal of the committee in adopting criteria and selecting grant recipients shall be to increase the capacity of nursing education programs statewide.

(3) The criteria adopted by the committee shall include, but not be limited to, consideration for:

(a) Whether the grant funds will be used to increase the capacity of a nursing education program;

(b) Whether the grant funds will be matched with funds from other sources or used to leverage additional funds from other sources;

(c) Ensuring that grant funds are awarded for nursing education programs in both urban areas and rural areas of the state;

(d) Ensuring that grant funds are used to increase the capacity for all levels of nursing education; and

(e) Ensuring that grant funds are used to increase the diversity of people who enter nursing education programs, including targeting underrepresented groups of people in the nursing profession.

(4) The total amount of grants awarded by the committee may not exceed the amount of moneys available for distribution as grants.

(5) A post-secondary education institution awarded a grant under this section may use the grant funds to:

(a) Develop nursing education program infrastructure;

(b) Train additional nurse educators;

(c) Develop regional learning laboratories;

(d) Provide technical support to nursing education programs;

(e) Create learning materials that supplement available faculty expertise;

(f) Coordinate student clinical experiences statewide; and

(g) Expand the capacity of nursing education programs to train new nurses across the state. [2003 c.697 §6]

**353.612 Nursing Education Grant Fund.** (1) The Nursing Education Grant Fund is established separate and distinct from the General Fund. All moneys received by the Oregon Department of Administrative Services or Oregon Health and Science University for purposes of ORS 353.600 to 353.612 shall be deposited into the State Treasury and credited to the Nursing Education Grant Fund.

(2) Interest earned from the Nursing Education Grant Fund shall be credited to the fund.

the department for allocation to the university for the purposes of ORS 353.600 to 353.612. [2003 c.697 §3a]

(3) All moneys in the Nursing Education Grant Fund are continuously appropriated to

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