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Chapter 366

2003 EDITION

State Highways and State Highway Fund

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GENERAL PROVISIONS

366.005 Definitions. As used in this chapter and in ORS chapter 367, unless the context requires otherwise:

(1) "Chief engineer" or "engineer" means the person designated by the director under ORS 184.628.

(2) "Commission" means the Oregon Transportation Commission.

(3) "Department" means the Department of Transportation.

(4) "Director" means the Director of Transportation.

(5) "Federal funds" means any funds provided by the United States for cooperative road work with states, counties, cities or other municipal subdivisions of the state under Acts of Congress enacted for those purposes.

(6) "Highway" means every public way, road, street, thoroughfare and place, including bridges, viaducts and other structures within the boundaries of this state, open, used or intended for use of the general public for vehicles or vehicular traffic as a matter of right.

(7) "Highway fund" means the State Highway Fund.

(8) "State highway" means any road or highway designated as such by law or by the Oregon Transportation Commission pursuant to law and includes both primary and secondary state highways.

(9) "This Act" means this chapter and ORS 105.760, 373.010, 373.015, 373.020 and 373.030. [Amended by 1969 c.599 §16; 1973 c.249 §28; 1979 c.186 §8; 1989 c.904 §34; 1993 c.741 §34; 2003 c.618 §44]

366.010 "County court" and "road" or "highway" defined. As used in this Act:

(1) "County court" includes all county officers or boards charged by law with the duty of building, constructing, repairing, altering or maintaining roads or bridges, or both.

(2) "Road" or "highway" includes necessary bridges and culverts, and city streets, subject to such restrictions and limitations as are provided.

366.015 "Hard surfaced highways" defined. As used in all highway Acts, "hard surfaced highways" means any state road or highway constructed and surfaced or to be constructed and surfaced with such materials or combinations of materials as to produce what is commonly known or styled "pavement," and not such construction or surfacing as is commonly known as "macadam."

366.105 [Amended by 1969 c.599 §17; 1971 c.598 §1; 1973 c.249 §29; 1979 c.186 §9; repealed by 1993 c.741 §147]

366.110 [Amended by 1969 c.314 §29; repealed by 1973 c.249 §91]

366.112 Bicycle lane and path advisory committee; members, terms, duties and powers; meetings. (1) There is created in the Department of Transportation an advisory committee to be appointed by the Governor to advise the department regarding the regulation of bicycle traffic and the establishment of bicycle lanes and paths. The committee shall consist of eight members including an employee of a unit of local government employed in land use planning, a representative of a recognized environmental group, a person engaged in the business of selling or repairing bicycles, a member designated by the Oregon Recreation Trails Advisory Council, and at least one member under the age of 21 at the time of appointment. Members of the advisory committee shall be entitled to compensation and expenses as provided by ORS 292.495.

(2) The members shall be appointed to serve for terms of four years each. A vacancy on the committee shall be filled by appointment by the Governor for the unexpired term.

(3) The committee shall meet regularly four times a year, at times and places fixed by the chairperson of the committee. The committee may meet at other times upon notice by the chairperson or three members of the committee. The department shall provide office space and personnel to assist the committee as requested by the chairperson, within the limits of available funds. The committee shall adopt rules to govern its proceedings and may select officers it considers necessary. [1973 c.716 §1; 1993 c.741 §35]

Note: 366.112 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 366 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

366.115 [Repealed by 1973 c.249 §91]

366.120 [Repealed by 1973 c.249 §91]

366.125 [Repealed by 1973 c.249 §91]

366.130 [Repealed by 1971 c.418 §23]

366.135 [Amended by 1953 c.129 §2; repealed by 1973 c.249 §91]

366.140 [Amended by 1953 c.129 §2; repealed by 1973 c.249 §91]

366.145 [Amended by 1971 c.598 §2; 1973 c.249 §30; 1979 c.186 §10; repealed by 1993 c.741 §147]

366.150 Bond of director. The Director of Transportation shall furnish a fidelity bond executed by a company duly licensed to transact the business of surety within this state, in such penal sum, not less than $200,000, as the Oregon Transportation Commission shall determine. The bond shall be conditioned for the faithful discharge by the director of the duties of office, for the faithful performance by all persons employed by

the director of their duties and trusts therein and for the transfer and delivery to the director's successor in office, or to any other person authorized by law to receive the same, of all moneys, books, papers, records and other articles and effects belonging to the office. The premium for the bond shall be paid out of highway funds. [Amended by 1971 c.598 §3; 1973 c.249 §31]

366.155 Duties and powers of department regarding highways; assistance to counties and State Parks and Recreation Department. (1) The Department of Transportation shall, among other things:

(a) So far as practicable, compile statistics relative to the public highways of the state and collect all information in regard thereto which the Director of Transportation may deem important or of value in connection with highway location, construction, maintenance, improvement or operation.

(b) Keep on file in the office of the department copies of all plans, specifications and estimates prepared by the department.

(c) Make all necessary surveys for the location or relocation of highways and cause to be made and kept in the department a general highway plan of the state.

(d) Collect and compile information and statistics relative to the mileage, character and condition of highways and bridges in the different counties in the state, both with respect to state and county highways.

(e) Investigate and determine the methods of road construction best adapted in the various counties or sections of the state, giving due regard to the topography, natural character and availability of road-building materials and the cost of building and maintaining roads under this Act.

(f) Prepare surveys, plans, specifications and estimates for the construction, reconstruction, improvement, maintenance and repair of any bridge, street, road and highway. In advertising for bids on any such project the director shall invite bids in conformity with such plans and specifications.

(g) Keep an accurate and detailed account of all moneys expended in the location, survey, construction, reconstruction, improvement, maintenance or operation of highways, roads and streets, including costs for rights of way, under this Act, and keep a record of the number of miles so located, constructed, maintained or operated in each county, the date of construction, the width of such highways and the cost per mile for the construction and maintenance of the highways.

(h) Upon request of a county governing body, assist the county on matters relating to road location, construction or maintenance. Plans and specifications for bridges or culverts that are provided under this paragraph shall be provided without cost to the 10 counties with the lowest dedicated county road funding, as defined in ORS 366.772. Standard specifications for road projects shall be provided without cost to all counties. The Department of Transportation shall determine an amount to be charged for assistance under this paragraph in establishing specifications and standards for roads under ORS 368.036. The costs of assistance not specifically provided for under this paragraph shall be paid as provided by agreement between the county governing body and the director.

(i) Upon request of the State Parks and Recreation Department, assist the State Parks and Recreation Department in evaluating the potential need for construction, reconstruction, improvement, maintenance or operation of highways, roads and streets that would result if the State Parks and Recreation Commission acquired and developed a new historic site, park or recreation area under the criteria established pursuant to ORS 390.112 or any other criteria for acquisition established by the State Parks and Recreation Commission.

(2) The director may require duties with respect to audits and accounting procedures provided for in this section and ORS 366.165 to be performed and responsibilities to be assumed by the fiscal officer of the department appointed under ORS 184.637.

(3) In carrying out the duties set forth in this section, the director shall act in a manner that is consistent with the goal set forth in ORS 468B.155. [Amended by 1967 c.454 §33; 1971 c.598 §4; 1973 c.249 §32; 1981 c.153 §60; 1989 c.345 §6; 1989 c.833 §49; 1993 c.741 §36; 1995 c.79 §201; 1999 c.1038 §1; 2003 c.618 §22]

366.157 Program for prevention of vandalism and prevention and cleanup of litter. The Department of Transportation shall administer a program aimed toward prevention of vandalism and prevention and cleanup of litter. The program may include public informational activities, but shall be directed primarily toward encouraging and facilitating involvement of youth in prevention of vandalism and litter and in litter cleanup work. Moneys for the program are provided from the Environmental Quality Information Account described under ORS 802.100. [Formerly 802.080]

366.158 Adopt-a-Highway Program; rules. (1) The Department of Transportation shall administer a program aimed toward beautifying and cleaning state roadsides. The program shall include public informational activities, but shall be directed primarily toward encouraging and facilitating involve-

ment of volunteer groups in litter cleanup work, each group on a specific section of highway. The program shall be called the Oregon Adopt-a-Highway Program. Moneys for the program shall be provided from funds available to the department. The department may adopt any rules it considers necessary for implementation of the Oregon Adopt-a-Highway Program.

(2) An agreement entered into between the department and a volunteer group pursuant to subsection (1) of this section shall include but need not be limited to:

(a) Identification of the designated section of highway. The volunteer group may request a specific section of highway it wishes to adopt, but the assignment shall be at the discretion of the department.

(b) Specification of the duties of the volunteer group. The group shall remove litter along the designated section of highway at least four times each year.

(c) Specification of the responsibilities of the volunteer group. The group shall agree to abide by all rules related to the program that are adopted by the department.

(d) Duration of the agreement. The volunteer group may contract to care for the designated section of highway for one, two or three years.

(3) A sign identifying the group and recognizing the group's contribution shall be placed by the department at each end of the section of highway adopted by the group unless the department determines that doing so would be unsafe to persons using the highway.

(4) The department shall provide reflective vests, garbage bags and highway signs for the participating volunteer groups. [1991 c.486 §2]

366.159 Vegetation control permit; fee. (1) The Department of Transportation may issue a vegetation control permit to a person who holds a sign permit issued pursuant to ORS 377.700 to 377.840. A vegetation control permit authorizes the holder of the permit to control vegetation in the right of way of a state highway, in accordance with the provisions of this section, in order to keep the sign visible to the traveling public.

(2) The department may not issue a vegetation control permit for a scenic area as defined in ORS 377.505.

(3) The department may not issue a vegetation control permit for the right of way of a portion of state highway that is access controlled, or for which access rights have not accrued to the abutting property unless:

(a) Access to the right of way is from the abutting property; and

(b) The access does not breach, violate, destroy or otherwise diminish the effectiveness or purpose of fences or other physical barriers to the right of way.

(4) The department may charge a fee to the person issued a vegetation control permit under this section. The amount of the fee shall be determined by the department and shall be designed to recover the cost to the department of issuing the permit. [2001 c.508 §7]

366.160 [Amended by 1967 c.454 §34; 1971 c.598 §5; 1973 c.249 §33; 1979 c.186 §11; repealed by 1989 c.345 §7; 1991 c.486 §2]

366.165 Revolving fund. (1) The revolving fund in the amount of $400,000 established by warrant drawn on any fund belonging to the state highway funds in favor of the Director of Transportation is continued.

(2) The revolving fund shall be deposited with the State Treasurer. The fund shall be at the disposal of the director. The director may designate persons authorized to pay claims from the fund and shall specify the maximum amount of money each designee may draw from the fund. The fund may be used:

(a) To pay salaries, travel expenses, compensation or payments for real property purchased or otherwise acquired, and emergency claims; or

(b) To secure or take advantage of trade discounts and to pay for services, materials and capital outlay.

(3) All vouchers for claims paid from the fund shall be approved by the director and audited by the fiscal officer of the Department of Transportation. When claims are so approved and audited, warrants covering them shall be drawn in favor of the director and shall be used by the director to reimburse the fund. [Amended by 1957 c.9 §1; 1967 c.454 §35; 1969 c.87 §1; 1971 c.598 §6; 1973 c.249 §34; 1979 c.186 §12; 1987 c.265 §1; 1993 c.741 §37]

366.170 [Amended by 1973 c.249 §35; repealed by 1993 c.741 §147]

366.175 [Amended by 1959 c.611 §1; renumbered 390.120]

366.180 [Amended by 1959 c.611 §2; renumbered 390.130]

366.182 [1959 c.611 §§5,6; renumbered 390.140]

366.183 [1959 c.611 §7; renumbered 390.150]

366.185 [1957 c.635 §2; 1971 c.481 §11a; 1971 c.598 §7; 1973 c.249 §36; repealed by 1979 c.186 §30]

POWERS AND DUTIES OF OREGON TRANSPORTATION COMMISSION

366.205 Power and authority of commission over highways; rules. (1) The Oregon Transportation Commission has general supervision and control over all matters pertaining to the selection, establishment, lo-

cation, construction, improvement, maintenance, operation and administration of state highways, the letting of contracts therefor, the selection of materials to be used therein and all other matters and things considered necessary or proper by the commission for the accomplishment of the purposes of this Act.

(2) The commission has full power to carry out the provisions of and may make such rules as it considers necessary for the accomplishment of the purposes of this Act, as defined in ORS 366.005.

(3) The Director of Transportation, as authorized by the commission, shall appoint such officials and do any other act or thing necessary to fully meet the requirements of ORS 366.510. [Amended by 1963 c.601 §1; 1965 c.368 §6; 1973 c.249 §37; 1975 c.436 §8; 1985 c.565 §64; 1989 c.904 §35; 1993 c.741 §38]

366.210 Limit on administration and engineering expenditure. The total cost in any one year for administration and engineering of highway construction shall not exceed 10 percent of the total funds available to the Department of Transportation during that year for its highway activities. [Amended by 1973 c.249 §38; 1993 c.741 §39]

FREIGHT ADVISORY COMMITTEE

366.212 Freight Advisory Committee. (1) There is created the Freight Advisory Committee to be appointed by the Director of Transportation to advise the director and the Oregon Transportation Commission regarding issues, policies and programs that impact multimodal freight mobility in Oregon.

(2) The director shall have discretion to determine the number of committee members and the duration of membership. The committee membership shall include, but not be limited to, representatives from the shipping and carrier industries, the state, local governments and ports, including the Port of Portland.

(3) The committee shall:

(a) Elect a chairperson and a vice chairperson.

(b) Meet at least four times a year.

(c) Provide input on statewide and regional policies and actions that impact freight mobility.

(d) Provide input on the development of policy and planning documents that impact freight mobility.

(e) Advise the commission and regionally based advisory groups about the Statewide Transportation Improvement Program and the program's consideration and inclusion of highest priority multimodal freight mobility projects in each Department of Transportation region.

(4) The committee may make recommendations for freight mobility projects to the commission. In making the recommendations, the committee shall give priority to multimodal projects.

(5) The Department of Transportation shall provide policy and support staff to the committee. The department shall also provide other personnel to assist the committee as requested by the chairperson and within the limits of available funds. [2001 c.240 §2; 2003 c.618 §46]

STATE HIGHWAYS

366.215 Creation of state highways; reduction in vehicle-carrying capacity. (1) The Oregon Transportation Commission may select, establish, adopt, lay out, locate, alter, relocate, change and realign primary and secondary state highways.

(2) Except as provided in subsection (3) of this section, the commission may not permanently reduce the vehicle-carrying capacity of an identified freight route when altering, relocating, changing or realigning a state highway unless safety or access considerations require the reduction.

(3) A local government, as defined in ORS 174.116, may apply to the commission for an exemption from the prohibition in subsection (2) of this section. The commission shall grant the exemption if it finds that the exemption is in the best interest of the state and that freight movement is not unreasonably impeded by the exemption. [Amended by 1977 c.312 §2; 2003 c.618 §38]

366.220 Creation of state highway system. (1) The Oregon Transportation Commission may select, establish, designate, construct, maintain, operate and improve or cause to be constructed, maintained, operated and improved a system of state highways within the state, which highways shall be designated by name and by the point of beginning and terminus thereof. The system of state highways shall include such other highways as may from time to time be selected and adopted by the commission pursuant to law and all highways adopted and classified as secondary state highways which are subject to and qualified for construction, improvement, betterment and maintenance as are other state highways.

(2) The commission may classify and reclassify the highways comprising the state highway system as primary and secondary highways. Secondary highways may consist of newly established highways, reclassified primary highways and county roads selected

pursuant to ORS 366.290. [Amended by 1953 c.252 §2; 1977 c.312 §3]

366.225 [Amended by 1953 c.252 §2; 1957 c.123 §1; repealed by 1977 c.312 §4]

366.226 [Amended by 1953 c.252 §2; 1957 c.123 §2; repealed by 1977 c.312 §4]

366.227 [Amended by 1953 c.252 §2; 1957 c.123 §3; repealed by 1977 c.312 §4]

366.228 [Amended by 1957 c.123 §4; repealed by 1977 c.312 §4]

366.229 [Repealed by 1977 c.312 §4]

366.230 [Amended by 1953 c.252 §2; repealed by 1977 c.312 §4]

366.231 [Repealed by 1977 c.312 §4]

366.232 [Amended by 1953 c.252 §2; 1957 c.123 §5; repealed by 1977 c.312 §4]

366.233 [Amended by 1953 c.252 §2; repealed by 1977 c.312 §4]

366.234 [Repealed by 1977 c.312 §4]

366.235 [Amended by 1957 c.123 §6; repealed by 1977 c.312 §4]

366.236 [Repealed by 1977 c.312 §4]

366.237 [Amended by 1955 c.6 §1; repealed by 1977 c.312 §4]

366.238 [Amended by 1953 c.252 §2; 1957 c.123 §7; 1959 c.202 §1; repealed by 1977 c.312 §4]

366.239 [Amended by 1953 c.252 §2; repealed by 1977 c.312 §4]

366.240 [Repealed by 1977 c.312 §4]

366.241 [Amended by 1953 c.252 §2; repealed by 1977 c.312 §4]

366.242 [Amended by 1953 c.252 §2; 1957 c.123 §8; repealed by 1977 c.312 §4]

366.243 [Repealed by 1977 c.312 §4]

366.244 [Amended by 1953 c.252 §2; repealed by 1977 c.312 §4]

366.245 [Repealed by 1977 c.312 §4]

366.246 [Repealed by 1977 c.312 §4]

366.247 [Amended by 1953 c.252 §2; repealed by 1977 c.312 §4]

366.248 [Amended by 1953 c.252 §2; repealed by 1977 c.312 §4]

366.249 [Repealed by 1977 c.312 §4]

366.250 [Repealed by 1977 c.312 §4]

366.251 [Amended by 1953 c.252 §2; repealed by 1977 c.312 §4]

366.252 [Amended by 1957 c.123 §9; repealed by 1977 c.312 §4]

366.253 [Repealed by 1977 c.312 §4]

366.254 [Repealed by 1977 c.312 §4]

366.255 [Amended by 1953 c.252 §2; repealed by 1977 c.312 §4]

366.256 [Amended by 1953 c.252 §2; repealed by 1977 c.312 §4]

366.257 [Amended by 1953 c.252 §2; 1957 c.123 §10; repealed by 1977 c.312 §4]

366.258 [Repealed by 1977 c.312 §4]

366.259 [Repealed by 1977 c.312 §4]

366.260 [Amended by 1953 c.252 §2; 1957 c.123 §11; repealed by 1977 c.312 §4]

366.261 [Amended by 1953 c.252 §2; repealed by 1977 c.312 §4]

366.262 [Repealed by 1977 c.312 §4]

366.263 [Amended by 1953 c.252 §2; repealed by 1977 c.312 §4]

366.264 [Repealed by 1977 c.312 §4]

366.265 [Amended by 1953 c.252 §2; repealed by 1977 c.312 §4]

366.266 [Repealed by 1977 c.312 §4]

366.267 [Repealed by 1977 c.312 §4]

366.268 [Repealed by 1977 c.312 §4]

366.269 [Repealed by 1977 c.312 §4]

366.270 [Amended by 1953 c.252 §2; repealed by 1977 c.312 §4]

366.271 [Amended by 1953 c.252 §2; repealed by 1977 c.312 §4]

366.272 [Amended by 1953 c.252 §2; repealed by 1977 c.312 §4]

366.273 [Amended by 1953 c.252 §2; 1957 c.123 §12; repealed by 1977 c.312 §4]

366.274 [Repealed by 1977 c.312 §4]

366.275 [Repealed by 1977 c.312 §4]

366.276 [Amended by 1953 c.252 §2; repealed by 1977 c.312 §4]

366.277 [Amended by 1953 c.252 §2; 1957 c.123 §13; repealed by 1977 c.312 §4]

366.278 [Amended by 1953 c.252 §2; repealed by 1977 c.312 §4]

366.279 [1953 c.252 §3; repealed by 1977 c.312 §4]

366.280 [1953 c.252 §4; repealed by 1977 c.312 §4]

366.281 [1953 c.252 §5; repealed by 1957 c.123 §14]

366.282 [1953 c.252 §6; repealed by 1957 c.123 §14]

366.283 [1953 c.252 §7; repealed by 1957 c.123 §14]

366.284 [1953 c.252 §8; repealed by 1977 c.312 §4]

366.285 Location of highways when in doubt; procedure. (1) The Department of Transportation may locate, relocate, define, establish, reestablish and confirm the extension, location and establishment of primary and secondary state highways where:

(a) By reason of loss or destruction of field notes of the original surveys made by the county when such roads or highways were laid out and established by the county, defective or incomplete surveys or records, or destroyed monuments or marks, the exact original location and boundary cannot be found or ascertained.

(b) For any reason the exact location and right of way lines are in doubt or are challenged.

(2) In exercising the authority under subsection (1) of this section the procedure afforded the county with respect to public roads under ORS 368.201 to 368.221 may be followed by the department. [Amended by 1981 c.153 §61]

366.290 Adding to or removing roads from state highway system; responsibility for construction and maintenance. (1) The Department of Transportation may select, locate, establish, designate, improve and maintain out of the highway fund a system of state highways, and for that purpose may, by mutual agreement with several counties, se-

lect county roads or public roads. By an appropriate order entered in its records the department may designate and adopt such roads as state highways. Thereafter the construction, improvement, maintenance and repair of such roads shall be under the jurisdiction of the department.

(2) In the selection of highways or roads to comprise the state highway system the department shall give consideration to and shall select such county roads or public roads as will contribute to and best promote the completion of an adequate system of state highways.

(3) With the written consent of the county in which a particular highway or part thereof is located, the department may, when in its opinion the interests of the state will be best served, eliminate from the state highway system any road or highway or part thereof. Thereafter the road or highway or part thereof eliminated shall become a county road or highway, and the construction, repair, maintenance or improvement, and jurisdiction over such highway shall be exclusively under the county in which such highway or road is located.

(4) The construction, maintenance and repair of state highways shall be carried on at the sole expense of the state or at the expense of the state and the county by mutual agreement between the department and the county in which any particular state highway is located. [Amended by 1953 c.252 §2; 1979 c.223 §1]

366.292 Consideration of tolling prior to doing modernization project. Before proceeding with a modernization project, or a series of modernization projects on a single highway, that might result in a segment of highway to which tolling could reasonably be applied, the Department of Transportation shall determine what portion of the costs of construction and maintenance could be recovered through tolls on users of the project. The toll potential of a modernization project shall be considered among other factors in determining which modernization projects should be included in the Statewide Transportation Improvement Program, with those projects with the greater potential to be self-funded through tolls ranking higher. A determination under this section may be based on assumptions that a single toll would be imposed or on assumptions that tolls would be imposed that vary depending on time of day or any other condition the department deems relevant. [1999 c.1072 §2]

366.295 Relocation of highways. The Oregon Transportation Commission may make such changes in the location of highways designated and adopted by the commission, as in the judgment and discretion of the commission will result in better alignment, more advantageous and economical highway operation and maintenance, or as will contribute to and afford a more serviceable system of state highways than is possible under the present location. [Amended by 1977 c.312 §1]

366.300 Treatment of sections eliminated when highway relocated. (1) Whenever the Department of Transportation relocates or realigns a state highway or a section thereof, and by reason of such relocation or realignment there is eliminated from the original route of the highway a section thereof, the eliminated section shall, if needed for the service of persons living thereon or for a community served thereby, be maintained by the department at state expense, or by the county or by the state and the county on such terms and conditions as may be agreed upon.

(2) If such eliminated sections of old right of way, or any part thereof, in the judgment of the department, are needed or valuable for public road use, then the department shall, by appropriate action, declare the purpose of the department to preserve the same for public road use.

(3) If the department determines under subsection (2) of this section that the eliminated sections are merely parts of the old right of way which are no longer needed or valuable for highway right of way purposes or any other public road use, then if such eliminated sections are not owned by the department in fee, the department shall abandon such eliminated sections and such sections shall, except as otherwise provided in this section, revert to and title thereto shall vest in the abutting owner or owners.

(4) Nothing in this section shall impair vested rights of property owners under existing deeds, easements or contracts whereby the state or any county acquired such rights of way. This section shall not prevent the department from contracting for the acquisition of easements or rights of way on such terms and conditions as to abandonment and reverter as it may consider advisable under the conditions then existing. [Amended by 1985 c.259 §1]

366.305 Materials, supplies and equipment. The Department of Transportation may select the materials to be used in the construction, maintenance and operation of state highways. It may purchase or contract for, independent of any particular job, improvement or highway project, whether done by contract, force account or otherwise, any material, supplies or equipment deemed necessary for carrying out the provisions and purposes of this Act in such amounts and manner and pursuant to such method as in

the judgment of the department will be for the best interests of the state.

366.310 Buildings and structures. The Department of Transportation may construct, equip, furnish and maintain office accommodations, shops, equipment sheds, storage plants and warehouses, snow fences, patrolmen quarters or accommodations and any other building, structure or thing deemed necessary for the efficient administration of the duties of the department and which in the opinion of the department are required for the proper and adequate accomplishment of the purposes of this Act.

366.315 Widths of rights of way. The Department of Transportation may determine the widths of rights of way for all state highways.

366.317 Removal of trees and shrubs; notice; application. When the construction, expansion or improvement of a state highway as defined in ORS 366.005 would otherwise clearly and certainly cause the destruction of trees and shrubs which in the judgment of the engineer or the designee of the engineer may be removed in safety, the Department of Transportation shall:

(1) Prior to their destruction, cause notice to be placed in a newspaper of general distribution in the locality in which these trees and shrubs are located that these trees and shrubs may be destroyed, and that application may be made to the department at a specific time and place to remove these trees and shrubs for transplanting; and

(2) Permit the removal of these trees and shrubs by those making application to do so. [1975 c.414 §1]

366.320 Acquisition of rights of way and right of access. (1) The Department of Transportation may acquire rights of way deemed necessary for all primary and secondary state highways, both within and without the corporate limits of cities and towns, except that such rights of way within the corporate limits of cities and towns may be acquired at the sole expense of the state, at the expense of the city or town or at the expense of the city or town and the state, as may be mutually agreed upon.

(2) The department may acquire by purchase, agreement, donation or by the exercise of the power of eminent domain, real property or any right or interest therein deemed necessary for rights of way, either for original location or for widening, straightening or otherwise changing any highway, road or street. The department may, when acquiring real property for right of way, acquire all right of access from abutting property to the highway to be constructed, relocated or widened.

(3) All rights of way owned or held by the several counties over and along any roads adopted as state highways are vested in the state, by and through the department. This subsection does not apply to any rights of way owned by any city for city streets. [Amended by 1953 c.252 §2]

366.321 Expense of relocating municipal facilities payable by department; exceptions. (1) When location, construction, relocation, reconstruction, maintenance or repair of a state highway requires relocation of any facilities placed or maintained in or on a public right of way by any municipal corporation, or a district or authority established under ORS chapter 264, 450, 451, 523 or 545, the Department of Transportation shall pay the municipal corporation, district or authority whose facilities are so required to be relocated the reasonable expenses of relocation, less any benefits and salvage of the relocation.

(2) Subsection (1) of this section shall not apply to:

(a) Facilities located in or on the right of way of a state highway under permits issued by the department upon the condition that the permittee would bear the cost of any relocation; or

(b) Facilities located in or on the right of way of a state highway where the municipal corporation, district or authority established under ORS chapter 264, 450, 451 or 545, has placed such facilities in or on the right of way of the state highway without a permit from the Oregon Transportation Commission or has refused to execute a permit as required by law or commission regulations. However, this paragraph shall not apply where such municipal corporation, district or authority has located facilities in or on the right of way of a city street or county road with the permission of the governing body of such city or county before such city street or county road was selected and designated a state highway by the Department of Transportation pursuant to ORS 366.290 or 373.010. [1967 c.272 §1; 1975 c.587 §1; 1975 c.782 §51a]

366.323 Studies to aid in relocating persons displaced by highway acquisition. When plans of the Department of Transportation projected for one year involve acquisition of properties in any city which will require removal of 25 or more dwelling units, businesses or institutions, the Department of Transportation shall make a study of the persons residing on or maintaining businesses or institutions on property scheduled for highway acquisition. Such studies shall be kept current until the premises required for highway acquisition are vacated. The department shall obtain such other information

as it finds appropriate to aid in the relocation of persons displaced by the highway acquisition, and may extend its studies beyond city boundaries when the highway acquisition will involve dwellings, businesses or institutions within three miles of a city boundary. Such information shall be made available to the persons displaced and to other persons who may provide or assist in providing new locations. This section shall apply whether the highway acquisitions will be paid for in whole or in part from state funds either directly or by reimbursement. The Department of Transportation may contract with any governmental subdivision or agency, or with private concerns to make and maintain such studies, or may employ necessary assistants therefor. [1959 c.648 §1; 1963 c.187 §1]

366.324 Financial assistance to persons displaced by highway acquisition; rules. (1) When federal funds are available for payment of direct financial assistance to persons displaced by highway acquisition, the Department of Transportation may match such federal funds to the extent provided by federal law and to provide such direct financial assistance in the instances and on the conditions set forth by federal law and regulations.

(2) When federal funds are not available or used for payment of direct financial assistance to persons displaced by department acquisition of property, the department may provide direct financial assistance to such persons. Financial assistance authorized by this subsection shall not exceed the total amount that would have been payable under subsection (1) of this section if federal funds had been available or used. The department may adopt rules and regulations to carry out the provisions of this subsection. [1959 c.648 §2; 1963 c.187 §2; 1965 c.222 §1]

366.325 Rights of way through cemeteries. The Department of Transportation may acquire by purchase, agreement, donation or by exercise of the power of eminent domain, real property for right of way through a cemetery, except that the department has no authority to acquire any such real property by exercise of the power of eminent domain if within the area sought to be taken there are graves which would be disturbed by the location and construction of a highway. The department may acquire by purchase, agreement, donation or exercise of the power of eminent domain, real property contiguous to the cemetery, and may convey such real property to the cemetery association or the owners of the cemetery in exchange for the property sought to be acquired for right of way purposes, but such authority shall not be exercised unless and until the owners of the cemetery agree in writing to the exchange of lands.

366.330 Acquisition of land adjoining right of way. The Department of Transportation may, when acquiring real property for right of way purposes, acquire additional real property adjoining the real property sought to be acquired for the particular public project if such additional and adjoining real property is needed for the purpose of moving and establishing thereon buildings or other structures then established on real property required for right of way purposes. The acquisition of the abutting, additional real property may be accomplished by purchase, agreement, donation or exercise of the power of eminent domain. Such real property can be acquired only in the event that the owner of the real property required for right of way purposes and on which there is then located buildings or other structures, has entered into a written agreement with the department providing for and consenting to the removal and reestablishment of the buildings or structures on the additional, abutting real property.

366.332 Definitions for ORS 366.332 and 366.333. As used in ORS 366.332 and 366.333:

(1) "Real property" includes any right, title or interest in real property.

(2) "Utility" means any corporation, including municipal or quasi-municipal corporation, company, individual, association of individuals, lessee, trustee or receiver, that owns, operates, manages or controls all or part of any plant or equipment in this state, whether or not such plant or equipment or part thereof is wholly within or outside any city, which plant or equipment is used, directly or indirectly:

(a) For the conveyance of telegraph or telephone messages, with or without wires;

(b) For the transportation of water, gas or petroleum products by pipelines;

(c) For the production, transmission, delivery or furnishing of heat, light, water, power, electricity or electrical impulses; or

(d) For the transmission and delivery of television pictures and sound by cables. [1965 c.382 §2]

366.333 Acquisition of utility real property; exchange of land for right of way. (1) If real property upon which utility facilities are located is necessary for city street, public road or state highway location, relocation, construction, reconstruction, betterment or maintenance, and any portion of the real property is likewise required by the utility for the proper operation of its business, but the utility is willing to convey the real property to the state for city street,

public road or state highway purposes in exchange for other real property within a reasonable distance, the state, through the Department of Transportation, may acquire by purchase, agreement or by the exercise of the power of eminent domain, other real property, except that of another utility, within a reasonable distance. After having acquired such real property, the state, through the department, may convey it to the utility in exchange for the real property required from the utility for city street, public road or state highway purposes. The difference in the value of the respective real properties shall be considered by the department in making the exchange.

(2) ORS 366.332 and this section do not vest in any utility any right, title or interest in any city street, public road, state highway or other public property. [1965 c.382 §§3,4]

366.335 Acquisition of railroad right of way; exchange of land therefor. (1) Whenever in the location, relocation, construction or betterment of any highway within the state, it is deemed necessary to locate, relocate or construct the highway, or any part thereof, upon the right of way of any railroad company, the state, through the Department of Transportation, may negotiate and agree with the railroad company for the right to use or occupy the right of way, or so much thereof as is necessary for highway purposes.

(2) In case no satisfactory agreement can be effected, then the state, through the department, may acquire the right of way by exercise of the power of eminent domain, and for that purpose may commence and prosecute condemnation proceedings to acquire the right to the use and occupancy of sufficient of the railroad right of way for highway purposes.

(3) Nothing in subsection (2) of this section authorizes the use or occupancy of the railroad right of way which would interfere with the operation of the railroad or its necessary appurtenances, taking into consideration the use of the railroad right of way by the company for yards, terminals, station grounds and necessary additional trackage, or which would jeopardize the safety of the public.

(4) In the event that the right of way or property of any railroad company in the state required or needed for state highway location, relocation, construction or betterment, and any portion of the property or right of way is likewise needed and required by the railroad company for the proper operation of its trains and the usual and ordinary conduct of its business, but which property or land the railroad company is willing to deed to the state for highway purposes in exchange for a like amount of land within a reasonable distance, the state, through the department, may acquire by purchase, agreement or by exercise of the power of eminent domain, an equal amount of land or property within a reasonable distance. After having acquired such land or property, the state, through the department, may convey the same to the railroad company in exchange for the land or property needed and required from the railroad company for highway purposes. The difference in the value of the respective parcels of land shall be considered by the department in making the exchange. [Amended by 1965 c.383 §1; 1999 c.59 §100]

366.337 Exchange of certain parcels of land authorized. The Department of Transportation, in the name of the State of Oregon, hereby is authorized to convey to any person, firm or corporation all or parts of the real properties described in section 1 of chapter 21, Oregon Laws 1953, in exchange for other real properties in close proximity thereto which, in the judgment of the department, are of equal or superior useful value for public use. [1953 c.21 §2]

366.340 Acquisition of real property generally. The Department of Transportation may acquire by purchase, agreement, donation or by exercise of the power of eminent domain real property, or any right or interest therein, including any easement or right of access, deemed necessary for:

(1) Construction of shops, equipment sheds, office buildings, maintenance sites, patrolmen accommodations, snow fences, quarry sites, gravel pits, storage sites, stock pile sites, weighing stations and broadcasting stations.

(2) Appropriation, acquisition or manufacture of road-building materials, approach or hauling roads, connecting roads, frontage road, highway drainage and drainage tunnels.

(3) Maintenance of an unobstructed view of any state highway so as to provide for the safety of the traveling public.

(4) Any other use or purpose deemed necessary for carrying out the purposes of this Act.

(5) Elimination or prevention of hazardous or undesirable points of entry from adjacent property to state highways. [Amended by 1953 c.252 §2]

366.345 [Amended by 1957 c.392 §1; 1963 c.601 §2; renumbered 390.110]

366.350 [Amended by 1959 c.611 §3; 1963 c.601 §3; renumbered 390.160]

366.355 [Renumbered 390.210]

366.360 Taking fee simple title. In all cases where title to real property is acquired by the Department of Transportation either by donation, agreement or exercise of the

power of eminent domain, a title in fee simple may be taken.

366.365 Going upon private property. The Department of Transportation may go upon private property in the manner provided by ORS 35.220 to determine the advisability or practicability of locating and constructing a highway thereover or the source, suitability or availability of road-building materials thereon. [Amended by 1953 c.252 §2; 2003 c.477 §5]

366.370 [Repealed by 1971 c.741 §38]

366.375 [Repealed by 1971 c.741 §38]

366.380 [Amended by 1957 c.656 §1; 1959 c.339 §1; 1967 c.479 §7; repealed by 1971 c.741 §38]

366.385 [Repealed by 1967 c.479 §8]

366.390 [Repealed by 1971 c.741 §38]

366.392 [1953 c.621 §1; subsection (2) enacted as 1961 c.404 §1; 1967 c.454 §36; repealed by 1971 c.741 §38]

366.393 [1953 c.621 §2; subsection (2) enacted as 1961 c.404 §2; repealed by 1971 c.741 §38]

366.394 [1967 c.479 §10; repealed by 1971 c.741 §38]

366.395 Disposition or leasing of property; sale of forest products. (1) The Department of Transportation may sell, lease, exchange or otherwise dispose or permit use of real or personal property, including equipment and materials acquired by the department, title to which real or other property may have been taken either in the name of the department, or in the name of the state, and which real or personal property is, in the opinion of the department, no longer needed, required or useful for department purposes, except that real property may be leased when, in the opinion of the department, such real property will not be needed, required or useful for department purposes during the leasing period.

(2) The department may sell, lease, exchange or otherwise dispose of such real or personal property in such manner as in the judgment of the department will best serve the interests of the state and will most adequately conserve highway funds or the department's account or fund for the real or personal property. In the case of real property, interest in or title to the same may be conveyed by deed or other instrument executed in the name of the state, by and through the department. All funds or money derived from the sale or lease of any such property shall be paid by the department to the State Treasurer with instructions to the State Treasurer to credit such funds or moneys:

(a) To the highway fund; or

(b) To the department's account or fund for the property. The State Treasurer shall credit the funds and moneys so received as the department shall direct.

(3)(a) Before offering forest products for sale the department shall cause the forest products to be appraised.

(b) If the appraised value of the forest products exceeds $15,000, the department shall not sell them to a private person, firm or corporation except after a public auction to receive competitive bids. Prior to such auction, the department shall give notice thereof not less than once a week for three consecutive weeks by publication in one or more newspapers of general circulation in the county in which the forest products are located and by such other media of communication as the department deems advisable. The minimum bid price and a brief statement of the terms and conditions of the sale shall be in the notice.

(c) Notice and competitive bidding under paragraph (b) of this subsection shall not be required if the Director of Transportation declares an emergency to exist that requires the immediate removal of the timber. If an emergency has been so declared:

(A) Then the timber, regardless of value, may be sold by a negotiated price; and

(B) The director shall make available for public inspection a written statement giving the reasons for declaring the emergency.

(4) The department's account or fund for the forest product shall be credited with the proceeds of the sale. [Amended by 1953 c.252 §2; 1971 c.279 §1; 1983 c.26 §1; 1989 c.904 §60; 1993 c.741 §40]

366.400 Execution of contracts. The Department of Transportation may enter into all contracts deemed necessary for the construction, maintenance, operation, improvement or betterment of highways or for the accomplishment of the purposes of this Act. All contracts executed by the department shall be made in the name of the state, by and through the department. [Amended by 1953 c.252 §2; 1975 c.771 §24]

366.405 [Amended by 1953 c.252 §2; repealed by 1975 c.771 §33]

366.410 [Repealed by 1975 c.771 §33]

366.415 [Amended by 1967 c.454 §37; 1969 c.423 §2; repealed by 1975 c.771 §33]

366.420 [Repealed by 1975 c.771 §33]

366.425 Deposit of moneys for highway work. (1) Any county, city or road district of the state or any person, firm or corporation may deposit moneys in the State Treasury or may deposit with the Department of Transportation an irrevocable letter of credit approved by the department for laying out, surveying, locating, grading, surfacing, repairing or doing other work upon any public highway within the state under the direction of the department. When any money or a letter of credit is deposited with the department under this subsection, the

department shall proceed with the proposed highway project.

(2) Money deposited under subsection (1) of this section shall be disbursed for the purpose for which it was deposited upon a voucher approved by the department and a warrant. [Amended by 1967 c.454 §38; 1979 c.365 §1]

366.430 [Amended by 1953 c.252 §2; repealed by 1969 c.429 §6]

366.435 Auditing and allowing claims. The Department of Transportation may allow all claims legally payable out of the highway fund. The department shall, if satisfied as to the correctness and validity of a claim, indorse approval thereon. When claims have been approved and indorsed by the fiscal officer of the department, they shall be filed with the fiscal officer of the department, who shall audit and pay the same out of the highway fund. [Amended by 1953 c.252 §2; 1967 c.454 §39]

366.440 Payment of employees. The Department of Transportation may pay employees by individual and separate vouchers or by a payroll.

366.445 Repair of damaged highways. The Department of Transportation may repair or cause to be repaired at once any state highway which has been damaged by slides, flood or other catastrophe so that the highway may be immediately reopened to traffic. To accomplish the reopening of the highway the department may, if it is deemed for the best interests of the state, proceed at once to remove the slide or to repair the damage with the department's own forces, or with other available forces. The department may cause such work to be done by contract without calling for competitive bids.

366.450 Road signs. The Department of Transportation may erect and maintain such directional road and other signs on the state highways at such places and of such material and design as it selects. [Amended by 1957 c.663 §1]

366.455 Removing advertising signs and unlawful structures. The Department of Transportation may take down and remove from the right of way of any state highway or from private property adjoining the highway any advertising sign or other structure or thing erected or maintained thereon contrary to law. When removing such sign, thing or structure the department shall follow and comply with the legal or statutory procedure provided by law.

366.460 Construction of sidewalks within highway right of way. The Department of Transportation may construct and maintain within the right of way of any state highway or section thereof sidewalks, footpaths, bicycle paths or trails for horseback riding or to facilitate the driving of livestock. Before the construction of any of such facilities the department must find and declare that the construction thereof is necessary in the public interest and will contribute to the safety of pedestrians, the motoring public or persons using the highway. Such facilities shall be constructed to permit reasonable ingress and egress to abutting property lawfully entitled to such rights.

366.462 Construction of fences on freeway overpasses. (1) The Department of Transportation shall construct fences on all freeway overpasses that are built on and after November 4, 1993. The fences shall be designed to deter persons from throwing objects from the overpasses onto the freeways.

(2) Beginning in the fiscal year that starts July 1, 1993, the Department of Transportation shall construct at least 15 fences per year on existing freeway overpasses. The department shall develop a priority system to construct fences first on those overpasses that involve the greatest risk factors. [1993 c.510 §§1,2; 2001 c.104 §125]

Note: 366.462 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 366 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

366.465 Gates and stock guards. The Department of Transportation may erect and maintain gates and stock or cattle guards in state highways at such points where the highways are crossed by drift or stock fences, where such highways intersect state or government-owned highways or other public highways and at other places in the state highways as the department may deem for the best interests of the public. The department may issue permits for the erection and maintenance of the same. Any gates constructed under this section must be constructed and maintained upon the right of way and not upon the traveled portion of the highway. If gates or stock guards are constructed under this section pursuant to a permit issued by the department, then the permit may contain such conditions, obligations and requirements as the department may deem for the best interests of the general public.

366.470 Agreements with railroad companies for snow removal. (1) The Department of Transportation may enter into agreements with a railroad company for the removal of snow from highway and railroad whenever a state highway is in close proximity to a railroad track and by reason thereof and in order to remove from the highway snow and ice which has blocked or threatens to block the highway to traffic it becomes necessary to cast such snow and ice upon the railroad tracks, thereby impairing

or interfering with train movement and tending to block train operations. The agreement may be made during or in anticipation of any such contingency, shall be in writing and shall fix the terms and conditions under which and the extent to and manner in which the state may, in removing the snow and ice from the highway, cast it upon the railroad tracks.

(2) The department may procure or cause to be executed by a corporation authorized to do such business in the state, a liability policy of insurance, an irrevocable letter of credit issued by an insured institution, as defined in ORS 706.008, or an undertaking running in favor of the state, the department, the railroad company and their officers and such employees of such parties as the contracting parties may designate.

(3) The insurance, letter of credit or undertaking:

(a) Shall be acceptable to the contracting parties.

(b) Shall in any event indemnify, protect and hold harmless the railroad company, its officers and employees designated, the state, the department, its officers and employees designated, from all claims for damage occasioned by or in connection with the removal of snow from the highway and the casting of the snow upon the railroad tracks.

(c) May, if so provided, reimburse either or both of the contracting parties for loss, cost and expense incurred in connection with or resulting from such work.

(4) The department may pay out of the highway fund the premium for the insurance or for the fee for the letter of credit and the cost and expense incurred or sustained by the railroad company and the state incident to the snow removal. [Amended by 1953 c.252 §2; 1991 c.331 §58; 1997 c.631 §466]

366.475 [Amended by 1979 c.104 §1; repealed by 1983 c.324 §59]

366.480 Destruction of vouchers. The Department of Transportation may from time to time destroy copies of vouchers which have ceased to possess any record value or serve any purpose and which have been in the files and custody of the department for a period of at least 10 years.

366.485 [Repealed by 1975 c.605 §33]

ROADSIDE REST AREAS

366.486 Construction of roadside rest area facilities for disabled persons. When a new roadside rest area is established adjacent to or within the right of way of a state highway, or when rest room facilities are constructed in an existing roadside rest area adjacent to or within the right of way of a state highway, a separate rest room facility for disabled persons of both sexes shall be constructed. The facility shall meet all requirements of ORS 447.210 to 447.280. [1993 c.738 §1]

Note: 366.486, 366.487 and 366.490 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 366 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

366.487 Use of roadside rest area rest rooms by disabled persons. (1) If a roadside rest area adjacent to or within the right of way of a state highway does not have a separate rest room facility for disabled persons of both sexes, a disabled person and a person of the opposite sex who is accompanying a disabled person for the purpose of assisting the disabled person in using the rest room may enter any existing rest room. Prior to entering the rest room, the assisting person shall receive permission from anyone who is in the rest room.

(2) A sign shall be posted outside all rest room facilities subject to the provisions of subsection (1) of this section stating that attendants of the opposite sex may accompany or be accompanied by disabled persons into any rest room. The sign shall include appropriate graphics. [1993 c.738 §2]

Note: See note under 366.486.

366.490 Coffee and cookies at roadside rest areas; rules. (1) The Department of Transportation shall establish by rule a permit program allowing nonprofit organizations to provide free coffee or other nonalcoholic beverages and cookies at roadside rest areas. Cookies offered under the program must come from a licensed facility. Rules adopted under this section may not restrict the program to any particular days of the year.

(2) An organization may apply for a permit to provide coffee, other beverages and cookies by submitting a written request to an employee of the department designated by the department. The request shall specify the day on which the organization wishes to offer the beverages and cookies and the specific rest area where they will be offered. The request shall be submitted not more than 60 days prior to the date requested.

(3) The department shall issue a permit to the selected organization not less than 30 days in advance of the date for which the permit is issued. If there is more than one request for the same date and the same place, the department shall select one organization by random drawing and shall issue the permit to that organization.

(4) The department may not issue more than one permit for the same time and place.

(5) An organization that receives a permit shall confine distribution of coffee, other beverages or cookies to an area of the rest

area designated in the permit or by the rest area attendant. The organization may not use, be within or obstruct access to any building or other structure in the rest area.

(6) An organization providing coffee, other beverages or cookies may receive donations but may not solicit them at the rest area.

(7) An organization may post signs identifying the organization and the activity, provided that each sign is not more than 10 square feet in area and there are not more than two signs. The signs may be placed only on vehicles used in connection with the provision of beverages and cookies or located in the area designated for the activity.

(8) The department may revoke the permit of any organization that fails to comply with the provisions of this section or with rules adopted by the department to implement the provisions. [1993 c.738 §3]

Note: See note under 366.486.

STATE HIGHWAY FUND

366.505 Composition and use of highway fund. (1) The State Highway Fund shall consist of:

(a) All moneys and revenues derived under and by virtue of the sale of bonds, the sale of which is authorized by law and the proceeds thereof to be dedicated to highway purposes.

(b) All moneys and revenues accruing from the licensing of motor vehicles, operators and chauffeurs.

(c) Moneys and revenues derived from any tax levied upon gasoline, distillate, liberty fuel or other volatile and inflammable liquid fuels, except moneys and revenues described in ORS 184.642 (2)(a) that become part of the Department of Transportation Operating Fund.

(d) Moneys and revenues derived from or made available by the federal government for road construction, maintenance or betterment purposes.

(e) All moneys and revenues received from all other sources which by law are allocated or dedicated for highway purposes.

(2) The highway fund shall be deemed and held as a trust fund, separate and distinct from the General Fund, and may be used only for the purposes authorized by law and is continually appropriated for such purposes.

(3) All interest earnings on any of the funds designated in subsection (1) of this section shall be placed to the credit of the highway fund. [Amended by 1953 c.125 §5; 1989 c.966 §43; 2001 c.820 §5]

366.506 Highway cost allocation study; purposes; design; report; use of report by Legislative Assembly. (1) Once every two years, the Oregon Department of Administrative Services shall conduct either a full highway cost allocation study or an examination of data collected since the previous study. The purposes of the study or examination of data are to determine:

(a) The proportionate share that the users of each class of vehicle should pay for the costs of maintenance, operation and improvement of the highways, roads and streets in the state; and

(b) Whether the users of each class are paying that share.

(2) The department may use any study design it determines will best accomplish the purposes stated in subsection (1) of this section. In designing the study the department may make decisions that include, but are not limited to, the methodology to be used for the study, what constitutes a class of vehicle for purposes of collection of data under subsections (1) to (4) of this section and the nature and scope of costs that will be included in the study.

(3) The department may appoint a study review team to participate in the study or examination of data required by subsection (1) of this section. The team may perform any functions assigned by the department, including but not limited to consulting on the design of the study.

(4) A report on the results of the study or examination of data shall be submitted to the legislative revenue committees and the legislative committees with primary responsibility for transportation by January 31 of each odd-numbered year.

(5) The Legislative Assembly shall use the report described in subsections (1) to (4) of this section to determine whether adjustments to revenue sources described in section 3a (3), Article IX of the Oregon Constitution, are needed in order to carry out the purposes of section 3a (3), Article IX of the Oregon Constitution. If such adjustments are needed, the Legislative Assembly shall enact whatever measures are necessary to make the adjustments. [2003 c.755 §§1,2]

Note: 366.506 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 366 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

366.507 Modernization program; funding; conditions and criteria. The Department of Transportation shall use an amount equal to the amount of moneys in the State Highway Fund that becomes available for its use from the increase in tax rates created by the amendments to ORS 319.020, 319.530,

825.476 and 825.480 by sections 1, 2 and 10 to 15, chapter 209, Oregon Laws 1985, and an amount equal to one-third of the amount of moneys in the State Highway Fund that becomes available for its use from any increase in tax rates created by the amendments to ORS 319.020, 319.530, 825.476 and 825.480 by sections 5, 6 and 8 to 15, chapter 899, Oregon Laws 1987, and from any increase in tax rates that results from the provisions of sections 16 and 17, chapter 899, Oregon Laws 1987, to establish and operate a state modernization program for highways. The program established under this section and the use of moneys in the program are subject to the following:

(1) The moneys may be used by the department to retire bonds that the department issues for the modernization program under bonding authority of the department.

(2) The intent of the modernization program is to increase highway safety, to accelerate improvements from the backlog of needs on the state highways and to fund modernization of highways and local roads to support economic development in Oregon. Projects both on and off the state highway system are eligible.

(3) Projects to be implemented by the modernization program shall be selected by the Oregon Transportation Commission. The criteria for selection of projects will be established after public hearings that allow citizens an opportunity to review the criteria. The commission may use up to one-half of moneys available under this section for modernization projects selected by the commission from a list of projects of statewide significance.

(4) In developing criteria for selection of projects, the commission shall consider the following:

(a) Projects must be of significance to the state highway system.

(b) Except for projects that are of statewide significance, projects must be equitably distributed throughout Oregon.

(c) Projects may be on county or city arterial roads connecting to or supporting a state highway.

(d) Priority may be given to projects that make a meaningful contribution to increased highway safety.

(e) Priority may also be given to projects that encourage economic development where:

(A) There is commitment by private industry to construct a facility.

(B) There is support from other state agencies.

(f) Priority may be given where there is local government or private sector financial participation, or both, in the improvement in addition to improvements adjacent to the project.

(g) Priority may be given where there is strong local support.

(5) Except as otherwise provided in this subsection, federal moneys or moneys from the State Highway Fund other than those described in this section may be used for the modernization program as long as the total amount used is equal to the amount described in this section. Federal moneys that are appropriated by Congress for specific projects and federal moneys that are allocated by the United States Department of Transportation for specific projects may not be used for the modernization program under this section. [1985 c.209 §9; 1987 c.899 §2; 1999 c.969 §4; 2001 c.766 §1; 2003 c.618 §14]

Note: The amendments to 366.507 by section 2, chapter 766, Oregon Laws 2001, become operative January 2, 2006. See section 3, chapter 766, Oregon Laws 2001. The text that is operative on and after January 2, 2006, including amendments by section 15, chapter 618, Oregon Laws 2003, is set forth for the user's convenience.

366.507. The Department of Transportation shall use an amount equal to the moneys in the State Highway Fund that become available for its use from the increase in tax rates created by the amendments to ORS 319.020, 319.530, 825.476 and 825.480 by sections 1, 2 and 10 to 15, chapter 209, Oregon Laws 1985, and an amount equal to one-third of the moneys in the State Highway Fund that become available for its use from any increase in tax rates created by the amendments to ORS 319.020, 319.530, 825.476 and 825.480 by sections 5, 6 and 8 to 15, chapter 899, Oregon Laws 1987, and from any increase in tax rates that results from the provisions of sections 16 and 17, chapter 899, Oregon Laws 1987, exclusively to establish a state modernization program for highways. The program established under this section and the use of moneys in the program are subject to the following:

(1) The moneys may be used by the department to retire bonds that the department issues for the modernization program under bonding authority of the department.

(2) The intent of the modernization program is to increase highway safety, to accelerate improvements from the backlog of needs on the state highways and to fund modernization of highways and local roads to support economic development in Oregon. Projects both on and off the state highway system are eligible.

(3) Projects to be implemented by the modernization program shall be selected by the Oregon Transportation Commission. The criteria for selection of projects will be established after public hearings that allow citizens an opportunity to review the criteria. The commission may use up to one-half of moneys available under this section for modernization projects selected by the commission from a list of projects of statewide significance.

(4) In developing criteria for selection of projects, the commission shall consider the following:

(a) Projects must be of significance to the state highway system.

(b) Except for projects that are of statewide significance, projects must be equitably distributed throughout Oregon.

(c) Projects may be on county or city arterial roads connecting to or supporting a state highway.

(d) Priority may be given to projects that make a meaningful contribution to increased highway safety.

(e) Priority may also be given to projects that encourage economic development where:

(A) There is commitment by private industry to construct a facility.

(B) There is support from other state agencies.

(f) Priority may be given where there is local government or private sector financial participation, or both, in the improvement in addition to improvements adjacent to the project.

(g) Priority may be given where there is strong local support.

366.508 Legislative findings. (1) The Legislative Assembly finds that:

(a) Estimated highway, road and street revenues from current sources will not adequately meet the need for continued development of a statewide road and bridge system that is economically efficient, provides accessibility to and from commercial, agricultural, industrial, tourist and recreational facilities and enhances the highway safety, environmental quality and land use goals of this state;

(b) Responsibility for the cost of the highway, road and street system should be proportional and should be based on the number and types of vehicles that use the system and on the frequency of their use; and

(c) Expansion, modernization, maintenance, repair, reconstruction, increased capacity and enhanced safety on all roads and bridges is crucial to the economic revitalization of Oregon.

(2) The Legislative Assembly declares that the purpose of this section and ORS 319.020, 319.530, 366.507, 366.739, 366.774, 366.790, 825.476 and 825.480 is:

(a) To enhance the revenue base for the state, counties and cities for continued development and maintenance of the road and bridge system; and

(b) To enhance the revitalization of this state's economy by implementing a long-term plan for the state, counties and cities that establishes priorities for road and bridge improvements. [1987 c.899 §1]

Note: 366.508 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 366 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

366.509 Budget for highway safety; priority for safety projects. (1) As part of the recommended budget for the Department of Transportation, the Governor shall submit to the Legislative Assembly a plan to spend $100 million to improve highway safety. Upon approval by the Legislative Assembly, the Department of Transportation shall implement the plan.

(2) In developing schedules for highway projects, including but not limited to construction, preservation and maintenance projects, the Oregon Transportation Commission and the Department of Transportation shall give priority to projects that enhance the safety of the users of the highways. [1999 c.969 §2]

366.510 Turning over highway funds to State Treasurer. All state officials charged with the collection of highway funds shall, upon the first of each month after collection, unless a different time is otherwise provided, turn the same over to the State Treasurer, who shall enter such revenues in the account of the highway fund. [Amended by 1967 c.454 §106]

366.512 Collection of certain registration fees for State Parks and Recreation Department Fund. (1) The Department of Transportation shall collect all registration fees for campers, manufactured structures, motor homes and travel trailers. Such fees shall be paid into the State Parks and Recreation Department Fund.

(2) As used in this section, the words "camper," "manufactured structure," "motor home" and "travel trailer" have the meanings given those terms in ORS chapter 801. [1969 c.605 §46; 1979 c.186 §13; 1983 c.338 §918; 1983 c.363 §2; 1985 c.16 §460; 1985 c.395 §6; 1989 c.904 §36; 1993 c.696 §15; 2003 c.14 §161]

Note: The amendments to 366.512 by section 72, chapter 655, Oregon Laws 2003, become operative May 1, 2005. See section 147, chapter 655, Oregon Laws 2003. The text that is operative on and after May 1, 2005, is set forth for the user's convenience.

366.512. (1) The Department of Transportation shall collect all registration fees for campers, motor homes and travel trailers. Such fees shall be paid into the State Parks and Recreation Department Fund.

(2) As used in this section, the words "camper," "motor home" and "travel trailer" have the meanings given those terms in ORS chapter 801.

366.514 Use of highway fund for footpaths and bicycle trails. (1) Out of the funds received by the Department of Transportation or by any county or city from the State Highway Fund reasonable amounts shall be expended as necessary to provide footpaths and bicycle trails, including curb cuts or ramps as part of the project. Footpaths and bicycle trails, including curb cuts or ramps as part of the project, shall be provided wherever a highway, road or street is being constructed, reconstructed or relocated. Funds received from the State Highway Fund may also be expended to maintain footpaths and trails and to provide footpaths and trails along other highways, roads and streets.

(2) Footpaths and trails are not required to be established under subsection (1) of this section:

(a) Where the establishment of such paths and trails would be contrary to public safety;

(b) If the cost of establishing such paths and trails would be excessively disproportionate to the need or probable use; or

(c) Where sparsity of population, other available ways or other factors indicate an absence of any need for such paths and trails.

(3) The amount expended by the department or by a city or county as required or permitted by this section shall never in any one fiscal year be less than one percent of the total amount of the funds received from the highway fund. However:

(a) This subsection does not apply to a city in any year in which the one percent equals $250 or less, or to a county in any year in which the one percent equals $1,500 or less.

(b) A city or county in lieu of expending the funds each year may credit the funds to a financial reserve fund in accordance with ORS 294.525, to be held for not more than 10 years, and to be expended for the purposes required or permitted by this section.

(c) For purposes of computing amounts expended during a fiscal year under this subsection, the department, a city or county may record the money as expended:

(A) On the date actual construction of the facility is commenced if the facility is constructed by the city, county or department itself; or

(B) On the date a contract for the construction of the facilities is entered with a private contractor or with any other governmental body.

(4) For the purposes of this chapter, the establishment of paths, trails and curb cuts or ramps and the expenditure of funds as authorized by this section are for highway, road and street purposes. The department shall, when requested, provide technical assistance and advice to cities and counties in carrying out the purpose of this section. The department shall recommend construction standards for footpaths and bicycle trails. Curb cuts or ramps shall comply with the requirements of ORS 447.310 and rules adopted under ORS 447.231. The department shall, in the manner prescribed for marking highways under ORS 810.200, provide a uniform system of signing footpaths and bicycle trails which shall apply to paths and trails under the jurisdiction of the department and cities and counties. The department and cities and counties may restrict the use of footpaths and bicycle trails under their respective jurisdictions to pedestrians and nonmotorized vehicles, except that motorized wheelchairs shall be allowed to use footpaths and bicycle trails.

(5) As used in this section, "bicycle trail" means a publicly owned and maintained lane or way designated and signed for use as a bicycle route. [1971 c.376 §2; 1979 c.825 §1; 1983 c.19 §1; 1983 c.338 §919; 1991 c.417 §7; 1993 c.503 §12; 1997 c.308 §36; 2001 c.389 §1]

366.515 [Amended by 1971 c.376 §3; 1973 c.249 §39; repealed by 1975 c.436 §7]

366.516 Incurring obligations payable from anticipated revenues. The Department of Transportation may incur obligations to be paid from the State Highway Fund for the construction, reconstruction, improvement, repair or maintenance of highways, streets and bridges in excess of the amount then standing to the credit of the State Highway Fund if in the opinion of the department there will be sufficient funds available for the payment of such obligations when they become due and payable and all other debts, obligations and expenses chargeable against the State Highway Fund including those amounts that are required by law to be set aside from the State Highway Fund for particular purposes. Obligations incurred under the authority of this section need not be payable in the same biennial period during which the obligation is incurred. [1953 c.125 §2]

366.517 Department may determine certain accounting procedures. The Department of Transportation shall determine the accounting period for which any expenditures shall be charged against the State Highway Fund. The department may charge such expenditures against the State Highway Fund at the time the expenditures are actually paid even though the expenditures were obligated during a prior accounting period. The department may keep its accounts on a calendar year basis. [1953 c.125 §3; 1967 c.454 §40]

366.518 Expenditures from highway fund to be reported, budgeted and limited to amounts budgeted. The Department of Transportation shall submit a biennial statement and budget estimate as required by law, and shall limit its expenditures from the State Highway Fund during each biennial period to the total amount of the budget approved according to law; provided, that the word "expenditures" shall mean all money actually paid out or due and payable, but shall not mean liabilities or obligations incurred but not due and payable until a subsequent biennial period. The provisions of any law establishing a Legislative Assembly emergency committee shall apply to expenditures from the State Highway Fund. [1953 c.125 §4]

366.520 Expenses in legalizing state highways. The expenses incurred in any proceeding by the Department of Transportation under ORS 368.201 to 368.221, when applied to state highways, shall be paid out of the highway fund. [Amended by 1981 c.153 §62]

366.522 Appropriations from highway fund for legislative interim committees. It hereby is declared to be the policy and intent of the Legislative Assembly that the total appropriations out of the State Highway Fund made by it for the payment of expenses incurred by the Legislative Assembly by and through its interim committee during any biennium shall be deemed to be the maximum amount necessary for such purpose. Any unexpended and unobligated balance remaining in any such appropriation heretofore or hereafter made shall, after the expiration of the biennium for which the appropriation was made, be returned to the State Highway Fund and may thereafter be used for any purpose authorized by law. [1953 c.84 §1]

366.524 [1985 c.209 §7; 1987 c.899 §18; 1987 c.899 §19; 1989 c.865 §5a; 1993 c.637 §17; 1993 c.770 §7; 1995 c.440 §3; 2001 c.669 §5; 2003 c.618 §16; renumbered 366.739 in 2003]

366.525 [Amended by 1967 c.463 §3; 1971 c.376 §4; 1979 c.344 §8; 1981 s.s. c.3 §108; 1983 c.164 §3; 1983 c.338 §920; 1985 c.209 §3; renumbered 366.762 in 2003]

366.530 [Amended by 1955 c.43 §1; 1955 c.287 §23; 1967 c.454 §41; 1977 c.743 §1; 1983 c.338 §921; 1987 c.440 §7; 1991 c.407 §34; 1993 c.741 §41; 1997 c.249 §117; renumbered 366.764 in 2003]

366.535 [Amended by 1967 c.463 §4; 1975 c.527 §2; 1979 c.344 §9; 1985 c.209 §4; renumbered 366.766 in 2003]

366.540 [Amended by 1967 c.454 §42; 1983 c.363 §3; 2003 c.618 §45; renumbered 366.768 in 2003]

366.541 [1995 c.790 §1; 2003 c.618 §19; renumbered 366.772 in 2003]

366.542 [1987 c.899 §3; 1999 c.797 §1; 2003 c.201 §38; renumbered 366.774 in 2003]

366.543 [2001 c.669 §6; 2002 s.s.1 c.3 §4; renumbered 366.742 in 2003]

366.545 [1965 c.634 §3; renumbered 390.170]

HISTORIC COLUMBIA RIVER HIGHWAY

366.550 "Historic Columbia River Highway" defined. As used in ORS 366.550 to 366.553, "Historic Columbia River Highway" means all parts of the original Columbia River Highway, constructed between 1913 and 1922, in Multnomah, Hood River and Wasco Counties, that have been designated as a "Historic and Scenic Highway" under ORS 377.100 and all properties and structures that are within the Columbia River Highway Historic District, National Register of Historic Places. [1987 c.382 §1]

Note: 366.550 to 366.553 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 366 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

366.551 Policy. The Legislative Assembly declares that it is the public policy of the State of Oregon to preserve and restore the continuity and historic integrity of the remaining segments of the Historic Columbia River Highway for public use and enjoyment and in furtherance thereof:

(1) To reuse and manage the Historic Columbia River Highway as a continuous visitor attraction that ties together Columbia Gorge cities and rural service centers and contributes to their economic development.

(2) To rehabilitate, restore, maintain and preserve all original roadway and highway-related structures on the intact and usable highway segments.

(3) To connect intact and usable highway segments with recreation trails, where feasible, to create a continuous historic road route through the Columbia Gorge which links local, state and federal recreation and historic sites.

(4) To provide a coordinated visitor information program to identify and interpret the significance of the highway.

(5) To preserve and enhance the scenic qualities of the highway and its associated corridor.

(6) To coordinate appropriate state agency activities and funds to accomplish these purposes. [1987 c.382 §2]

Note: See note under 366.550.

366.552 Historic road program for Historic Columbia River Highway; footpaths and bicycle trails; acquisition of property; cooperation with other agencies. (1) The Department of Transportation and the State Parks and Recreation Department shall prepare and manage a historic road program, in consultation with the Historic Columbia River Highway Advisory Committee and other affected entities, consistent with the purposes of the Columbia River Gorge National Scenic Area Act of 1986 and the public policy of this state declared in ORS 366.551.

(2) The departments shall inform the advisory committee of those activities of the departments which may affect the continuity, historic integrity and scenic qualities of the Historic Columbia River Highway.

(3) The departments shall undertake efforts to rehabilitate, restore, maintain and preserve all intact and usable segments of the Historic Columbia River Highway and associated state parks. The Department of Transportation may expend funds dedicated

for footpaths and bicycle trails under ORS 366.514 to construct footpaths and bicycle trails on those portions of the Historic Columbia River Highway that are parts of the state highway system or that are county roads or city streets and the State Parks and Recreation Department may incorporate those segments into the Oregon recreation trails system under the provisions of ORS 390.950 to 390.989 and 390.995 (2).

(4) The departments may acquire real property, or any right or interest therein, deemed necessary for the preservation of historic, scenic or recreation qualities of the Historic Columbia River Highway, for the connection of intact and usable segments, or for the development and maintenance of parks along or in close proximity to the highway. The departments shall encourage the acquisition of lands, or interests in lands, by donation, agreement, exchange or purchase.

(5) The departments shall assist and cooperate with other agencies and political subdivisions of the state, state agencies, the federal government, special purpose districts, railroads, public and private organizations and individuals to the extent necessary to carry out the provisions of ORS 366.550 to 366.553. The departments may enter into such contracts as are necessary to carry out these provisions. [1987 c.382 §3; 1989 c.904 §37]

Note: See note under 366.550.

366.553 Advisory committee; members; duties; meetings. (1) There is created in the Department of Transportation an advisory committee to advise the Director of Transportation and the Oregon Transportation Commission on policy matters pertaining to the preservation and restoration of the Historic Columbia River Highway. The committee shall consist of 10 members, including the State Parks and Recreation Director, State Historic Preservation Officer, Director of the Economic and Community Development Department or their delegates, one member appointed by the Director of Transportation and six citizen members, two residents each from Wasco, Hood River and Multnomah Counties. The Governor shall appoint one member from each of the three counties and each county commission shall appoint one member respectively. Citizen members shall have knowledge or specific interest in historic or scenic preservation, engineering design, recreation or related disciplines.

(2) The citizen members shall be appointed to terms of four years, commencing on July 1 of the year of appointment. Members of the advisory committee shall be entitled to expenses as provided by ORS 292.495 (2).

(3) The committee shall review the department's preparation of the historic road program and its ongoing management and submit recommendations to the Director of Transportation.

(4) The committee shall review proposed highway-related activities and other public actions, except for routine highway maintenance, which may affect the historic integrity, continuity, scenic values, public access and public recreational opportunities within the Columbia River Highway Historic District and submit recommendations to the director. The committee may appoint subcommittees composed of qualified members or other technical specialists, as required, to review plans, construction or other subjects as designated by the committee. The director shall provide notice to the committee of proposed activities, actions or projects at the earliest possible opportunity.

(5) The committee may recommend to the director that a public hearing with appropriate public notification be held for proposed activities, actions or projects which significantly affect the Historic Columbia River Highway.

(6) The committee shall meet regularly a minimum of four times a year at times and places fixed by the chairperson of the committee. The department shall provide personnel services to assist the committee within the limits of available funds. The committee shall adopt rules to govern its proceedings and may select officers it considers necessary. [1987 c.382 §4; 1989 c.904 §61; 1993 c.736 §54; 1993 c.741 §42]

Note: See note under 366.550.

INTERGOVERNMENTAL HIGHWAY COOPERATION

366.556 Acceptance of provisions of Acts of Congress. The State of Oregon assents to the Act of July 11, 1916, 39 Stat. 355, entitled "An act to provide that the United States shall aid the states in the construction of rural post roads, and for other purposes," or Acts supplementary thereto, and accepts the provisions and benefits of any Act of Congress having for its purpose the construction, improvement or maintenance of public roads or highways in the State of Oregon. [Formerly 366.705]

366.558 Contracting with and submitting programs to federal government. The Department of Transportation may enter into all contracts and agreements with the federal government relating to the survey, construction, improvement and maintenance of roads and highways, including county roads and city streets, submit such scheme or program of construction, improvement or maintenance as may be required by the federal govern-

ment, and do all other things necessary fully to carry out the cooperation contemplated and provided for by the Acts of Congress mentioned in ORS 366.556. [Formerly 366.710]

366.560 Pledge of state to match federal funds. For the construction or improvement and maintenance of rural post roads or such other roads, highways and streets as may be eligible for federal aid funds, the good faith of the state is pledged to make available funds which alone, or combined with funds made or to be made available by counties and cities, will be sufficient to match funds made available to the State of Oregon by the federal government for highway, road or street purposes. For the purpose of evidencing such good faith the Department of Transportation, in the name of the state, is authorized to enter into any and all agreements with the federal government. [Formerly 366.715]

366.562 Use of highway fund to match federal moneys. The Department of Transportation may use, allocate or in any manner employ for the purpose of matching any sum of money made available to the state by the federal government for road or highway purposes any moneys credited to the highway fund, regardless of the source from which such moneys may have been derived. [Formerly 366.720]

366.564 Borrowing to match federal moneys. For the purpose of providing funds to match funds made available to the state by the federal government for highway purposes and for the matching of which federal funds there are no highway funds immediately available, the Department of Transportation may borrow money as provided in ORS 367.105. [Formerly 366.725]

366.566 Meeting requirements of federal aid statutes. The Department of Transportation or officers having control of the state highways shall enter into such contracts, appoint such officers and do any other act or thing necessary to fully meet the requirements of the federal government and the officers acting under the federal statutes mentioned in ORS 366.556, or of other federal aid furnished. [Formerly 366.730]

366.568 Using highway funds to comply with federal aid statutes. The Department of Transportation or officers having control of the state highways shall, out of the money received in the highway funds each year from any and all sources, first set aside, if deemed necessary or expedient, a sufficient amount to comply with the terms of the Federal Acts mentioned in ORS 366.556, and any other aid hereafter furnished by the federal government for the construction of roads and highways or to match the federal aid. [Formerly 366.735]

366.570 Payments under cooperative agreement with federal government. (1) Where state or county roads are to be surveyed or constructed under the supervision of the federal government with the aid of state or county funds, or both, the State Treasurer or county treasurer, or both, may advance to the federal government, in the manner provided in this section, the full amount set forth in the cooperative agreement, or such portion of the amount as may be specified by the federal government at any time after the Department of Transportation or the county commissioners have entered into a cooperative agreement with the federal government for the survey, construction or maintenance of a road under any such statute, or under any appropriation statute for the federal government against which such expenditures may be chargeable.

(2) The advance payments shall be made to the fiscal agent of the federal government designated by, and upon receipt of, a request for such funds from the federal government, if the federal government agrees to refund to the state or county treasurer, or both, as the case may be, any amount advanced in excess of the proportionate share of the actual cost.

(3) When the state, through the Department of Transportation has entered into any cooperative agreement with the federal government for the survey or construction of any state road or highway as in this section contemplated, the department shall prepare, verify and approve a claim in favor of the federal government for the amount of the state's share of the cost of the work, accompanying the claim with a copy of the agreement. The claim shall be paid by warrant on the State Treasurer in the manner provided by law, from such funds as are available for road purposes as shall be directed by the department. [Formerly 366.765]

366.572 State highway agreements with local governments. (1) The Department of Transportation may enter into a cooperative agreement with any one or more cities, counties, road districts or other municipalities of the state for the construction, reconstruction, improvement, repair or maintenance of any state highway, and provide for an allocation of the cost of the project to the contracting parties.

(2) The Department of Transportation may enter into cooperative agreements with any county for the survey, construction, improvement, reconstruction, repair or maintenance of any state highway or part thereof upon such basis of contribution as may be agreed upon between them. [Formerly 366.770]

366.574 Intergovernmental road maintenance agreement. (1) The Legislative Assembly declares that it is the public policy of the State of Oregon to promote cooperation between the Department of Transportation and counties on road maintenance projects when it results in an overall benefit to the public. Monetary savings that result from the cooperative efforts shall primarily be retained by the counties and the division of the department that enters into the agreement. The participants should endeavor to cooperate regardless of the proportion of benefit to either party.

(2) A county and the Department of Transportation or a division of the department may establish an intergovernmental road maintenance agreement that will govern the maintenance of state highways and county roads within the county or other areas described by the agreement or of a particular road project. The agreement must be ratified by the governing body of the county and the Director of Transportation. An agreement under this section shall require highways and roads to be maintained in accordance with standards mutually established by the Oregon Transportation Commission and the county governing body.

(3) All employees and managers of the department and the county who will perform road maintenance activities described in the agreement or who will be involved in the road project described in the agreement must be given a reasonable opportunity to participate with the department and the counties in establishing the terms and provisions of the agreement.

(4) Nothing in this section or in the agreement affects title to or ownership of state highways or county roads.

(5) The agreement must:

(a) Provide for the use of state and county road maintenance equipment and facilities by the participants.

(b) Recognize an agreement between either participant and a state or federal agency established to protect the environment. The intergovernmental road maintenance agreement should contain references to applicable provisions that implement procedures and specifications contained in the agreement between either participant and the agency.

(c) Establish a procedure, consistent with appropriate collective bargaining agreements, to ensure that employees of the department and the county are properly supervised.

(d) Establish a procedure to determine which maintenance methods will be used by the participants.

(e) Establish a procedure to account for changes in operating costs due to the establishment of the agreement and to allocate increased costs or distribute cost savings between the county and the department.

(f) Establish a formula, adjustment factor or procedure for the equitable adjustment and comparison of the maintenance and equipment use rates required of the department under federal law and the maintenance and equipment use rates employed by the county.

(g) Authorize the participants to use either the procurement procedures applicable to the department or the procurement procedures applicable to the county as long as the procurement procedures include adequate safeguards fostering competition and are consistent with ORS 279.005 and 279.007. [Formerly 366.773]

Note: The amendments to 366.574 (formerly 366.773) by section 265, 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.

366.574. (1) The Legislative Assembly declares that it is the public policy of the State of Oregon to promote cooperation between the Department of Transportation and counties on road maintenance projects when it results in an overall benefit to the public. Monetary savings that result from the cooperative efforts shall primarily be retained by the counties and the division of the department that enters into the agreement. The participants should endeavor to cooperate regardless of the proportion of benefit to either party.

(2) A county and the Department of Transportation or a division of the department may establish an intergovernmental road maintenance agreement that will govern the maintenance of state highways and county roads within the county or other areas described by the agreement or of a particular road project. The agreement must be ratified by the governing body of the county and the Director of Transportation. An agreement under this section shall require highways and roads to be maintained in accordance with standards mutually established by the Oregon Transportation Commission and the county governing body.

(3) All employees and managers of the department and the county who will perform road maintenance activities described in the agreement or who will be involved in the road project described in the agreement must be given a reasonable opportunity to participate with the department and the counties in establishing the terms and provisions of the agreement.

(4) Nothing in this section or in the agreement affects title to or ownership of state highways or county roads.

(5) The agreement must:

(a) Provide for the use of state and county road maintenance equipment and facilities by the participants.

(b) Recognize an agreement between either participant and a state or federal agency established to protect the environment. The intergovernmental road maintenance agreement should contain references to applicable provisions that implement procedures and specifications contained in the agreement between either participant and the agency.

(c) Establish a procedure, consistent with appropriate collective bargaining agreements, to ensure that

employees of the department and the county are properly supervised.

(d) Establish a procedure to determine which maintenance methods will be used by the participants.

(e) Establish a procedure to account for changes in operating costs due to the establishment of the agreement and to allocate increased costs or distribute cost savings between the county and the department.

(f) Establish a formula, adjustment factor or procedure for the equitable adjustment and comparison of the maintenance and equipment use rates required of the department under federal law and the maintenance and equipment use rates employed by the county.

(g) Authorize the participants to use either the procurement procedures applicable to the department or the procurement procedures applicable to the county as long as the procurement procedures include adequate safeguards fostering competition and are consistent with ORS 279A.015 and 279C.300.

Note: 366.574 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 366 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

366.576 Road, highway or street agreements with local governments. The Department of Transportation may enter into an agreement with any county, city, town or road district for the construction, reconstruction, improvement, repair or maintenance of any road, highway or street, upon terms and conditions mutually agreed to by the contracting parties; and the department may acquire by purchase, agreement, donation or by exercise of the power of eminent domain, any real property necessary for rights of way therefor. [Formerly 366.775]

366.578 Farm-to-market roads. (1) The Department of Transportation and local governments shall consider the importance of farm-to-market roads when making highway funding decisions.

(2) As used in this section, "farm-to-market road" means a rural or urban road, street or highway that is used to move agricultural or logging products to market. [Formerly 366.777]

Note: 366.578 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 366 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

366.605 [Renumbered 367.105]

366.625 [Renumbered 367.202]

366.627 [Renumbered 367.204]

366.629 [Renumbered 367.206]

366.631 [Renumbered 367.208]

366.633 [Renumbered 367.210]

366.635 [Renumbered 367.212]

366.637 [Renumbered 367.214]

366.639 [Renumbered 367.216]

366.641 [Renumbered 367.218]

366.643 [Renumbered 367.220]

366.645 [Renumbered 367.226]

366.650 [Renumbered 367.228]

366.655 [Renumbered 367.230]

366.660 [Renumbered 367.232]

366.665 [Renumbered 367.234]

366.670 [Renumbered 367.236]

366.675 [Renumbered 367.238]

366.680 [Renumbered 367.240]

366.685 [Renumbered 367.242]

366.688 [1953 c.20 §2; renumbered 367.252]

366.689 [1953 c.20 §3; renumbered 367.254]

366.690 [1953 c.20 §4; renumbered 367.256]

366.691 [1953 c.20 §5; renumbered 367.258]

366.692 [1953 c.20 §6; renumbered 367.260]

366.693 [1953 c.20 §7; renumbered 367.262]

366.694 [1953 c.20 §8; renumbered 367.264]

366.695 [1953 c.20 §9; renumbered 367.266]

366.696 [1953 c.20 §10; renumbered 367.268]

366.697 [1953 c.20 §11; renumbered 367.270]

366.6980 [1957 c.22 §1; renumbered 367.282]

366.6981 [1957 c.22 §2; renumbered 367.284]

366.6982 [1957 c.22 §3; renumbered 367.286]

366.6983 [1957 c.22 §4; renumbered 367.288]

366.6984 [1957 c.22 §5; renumbered 367.290]

366.6985 [1957 c.22 §6; renumbered 367.292]

366.6986 [1957 c.22 §7; renumbered 367.294]

366.6987 [1957 c.22 §8; renumbered 367.296]

366.6988 [1957 c.22 §9; renumbered 367.298]

366.6989 [1957 c.22 §10; renumbered 367.300]

366.6990 [1957 c.22 §11; renumbered 367.302]

366.7000 [1957 c.354 §1; renumbered 367.324]

366.7001 [1957 c.354 §2; renumbered 367.326]

366.7002 [1957 c.354 §3; renumbered 367.328]

366.7003 [1957 c.354 §4; renumbered 367.330]

366.7004 [1957 c.354 §5; renumbered 367.332]

366.7005 [1957 c.354 §6; renumbered 367.334]

366.7006 [1957 c.354 §7; renumbered 367.336]

366.7007 [1957 c.354 §8; renumbered 367.338]

366.7008 [1957 c.354 §9; renumbered 367.340]

366.7009 [1957 c.354 §10; renumbered 367.344]

366.7010 [1957 c.354 §11; renumbered 367.346]

366.7020 [1959 c.386 §1; renumbered 367.365]

366.7021 [1959 c.386 §2; 1961 c.345 §1; renumbered 367.370]

366.7022 [1959 c.386 §3; renumbered 367.380]

366.7023 [1959 c.386 §4; renumbered 367.385]

366.7024 [1959 c.386 §5; 1961 c.381 §3; renumbered 367.390]

366.7025 [1959 c.386 §6; renumbered 367.395]

366.7026 [1959 c.386 §7; renumbered 367.400]

366.7027 [1959 c.386 §8; renumbered 367.405]

366.7028 [1959 c.386 §9; renumbered 367.410]

366.7029 [1959 c.386 §10; 1961 c.345 §2; renumbered 367.415]

366.7030 [1959 c.386 §11; renumbered 367.420]

366.705 [Renumbered 366.556 in 2003]

366.710 [Amended by 1979 c.293 §3; renumbered 366.558 in 2003]

366.715 [Amended by 1979 c.293 §4; renumbered 366.560 in 2003]

366.720 [Renumbered 366.562 in 2003]

366.725 [Renumbered 366.564 in 2003]

366.730 [Renumbered 366.566 in 2003]

366.735 [Part renumbered 367.155; 1979 c.293 §6; renumbered 366.568 in 2003]

ALLOCATIONS TO COUNTIES AND CITIES

(Generally)

366.739 Allocation of moneys to counties and cities generally. Except as otherwise provided in ORS 366.744, the taxes collected under ORS 319.020, 319.530, 803.090, 803.420, 818.225, 825.476 and 825.480, minus $71.2 million per biennium, shall be allocated 24.38 percent to counties under ORS 366.762 and 15.57 percent to cities under ORS 366.800. [Formerly 366.524]

366.740 [Renumbered 367.160]

366.742 Repayment of specified bonds; allocation of moneys not needed for repayment. Each biennium, any portion of the $71.2 million referred to in ORS 366.739 that remains after deducting an amount equal to total debt service payments payable on outstanding Highway User Tax Bonds described in ORS 367.620 (2) shall be allocated 50 percent to the Department of Transportation, 30 percent to counties and 20 percent to cities. Moneys allocated to counties and cities under this section shall be distributed in the same manner as moneys allocated under ORS 366.739 are distributed. [Formerly 366.543]

Note: 366.742 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 366 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

366.744 Allocation of moneys from specified increases in title and registration fees and in truck taxes and fees; restrictions on expenditure by Multnomah County. (1) The following moneys shall be allocated as provided in subsection (2) of this section:

(a) The amount attributable to the increase in title fees by the amendments to ORS 803.090 by section 1, chapter 618, Oregon Laws 2003.

(b) The amount attributable to the increase in registration fees by the amendments to ORS 803.420 by section 2, chapter 618, Oregon Laws 2003, except for the amount paid to the State Parks and Recreation Department Fund under ORS 366.512; and

(c) The amount attributable to the increase in fees and tax rates by the amendments to ORS 818.225, 825.476 and 825.480 by sections 3, 4 and 5, chapter 618, Oregon Laws 2003.

(2) The moneys described in subsection (1) of this section shall be allocated as follows:

(a) 57.53 percent to the Department of Transportation.

(b) 25.48 percent to the department to pay the principal and interest due on bonds authorized under ORS 367.620 (3) that are issued for replacement and repair of bridges on county highways. However, any portion of the 25.48 percent that is not needed for payment of principal and interest on the bonds described in this paragraph shall be allocated to counties. Moneys allocated to counties under this paragraph shall be distributed in the same manner as moneys allocated to counties under ORS 366.739 are distributed.

(c) 16.99 percent to the department to pay the principal and interest due on bonds authorized under ORS 367.620 (3) that are issued for replacement and repair of bridges on city highways. However, any portion of the 16.99 percent that is not needed for payment of principal and interest on the bonds described in this paragraph shall be allocated to cities. Moneys allocated to cities under this paragraph shall be distributed in the same manner as moneys allocated to cities under ORS 366.739 are distributed.

(3)(a) Multnomah County shall spend a majority of moneys distributed to it under subsection (2)(b) of this section on bridges in the county.

(b) Moneys distributed to Multnomah County under subsection (2)(b) of this section that are not spent on bridges shall be distributed equitably within the county, based on the agreement described in paragraph (c) of this subsection.

(c) Multnomah County and the cities within the county shall agree upon the distribution of moneys described in paragraph (b) of this subsection. When the county and the cities have reached an agreement, they shall notify the Oregon Transportation Commission of the agreement. If the commission does not receive notice of an agreement by June 30, 2004, the Department of Transportation may not distribute moneys that would otherwise go to the county under paragraph (b) of this subsection. Such moneys shall revert to the State Highway Fund for use by the Department of Transportation. [2003 c.618 §18]

Note: Section 145, chapter 655, Oregon Laws 2003, provides:

Sec. 145. If House Bill 2041 [chapter 618, Oregon Laws 2003] becomes law, notwithstanding any contrary provision by section 18, chapter 618, Oregon Laws 2003 [366.744], providing for the distribution of moneys from increases in title fees under ORS 803.090, all moneys from fees for the issuance of a certificate of title for a manufactured structure, less costs of collection, shall

be retained by the Department of Transportation for use in the administration and enforcement of the duties, functions and powers of the Department of Transportation relating to manufactured structures, manufactured structure dealers and manufactured structure dealerships or for transfer to the Department of Consumer and Business Services as provided under section 3 of this 2003 Act. [2003 c.655 §145]

366.745 [Renumbered 367.165]

366.747 Allocation of moneys from specified increases in fees. (1) The following moneys shall be allocated as described in subsection (2) of this section:

(a) The amount attributable to the increase in the inspection fee by the amendments to ORS 803.215 by section 47, chapter 618, Oregon Laws 2003.

(b) The amount attributable to any increase in registration plate fees by the amendments to ORS 803.570 by section 48, chapter 618, Oregon Laws 2003.

(c) The amount attributable to the increases in fees for driver licenses, permits and endorsements by the amendments to ORS 807.370 by section 49, chapter 618, Oregon Laws 2003.

(d) The amount attributable to the increase in the weight receipt fee by the amendments to ORS 825.450 by section 50, chapter 618, Oregon Laws 2003.

(2) The moneys described in subsection (1) of this section shall be allocated 60 percent to counties and 40 percent to cities. Moneys allocated under this section shall be distributed in the same manner as moneys allocated to counties and cities under ORS 366.739 are distributed. [2003 c.618 §53]

366.749 Allocation of moneys resulting from increase in numbers of vehicle registrations, titles and trip permits due to specified actions by vehicle dealers and persons engaged in towing. (1) Each year the Department of Transportation shall determine the increase in the number of vehicle registrations and titles that is attributable to ORS 803.565 and the increase in the number of trip permits issued under ORS 803.600 that is attributable to the amendments to ORS 803.600 by section 3, chapter 600, Oregon Laws 2003.

(2) Notwithstanding any other allocation of moneys to counties and cities under this chapter, the amount of moneys from the increases described in subsection (1) of this section shall be allocated 60 percent to counties and 40 percent to cities. Moneys allocated under this section shall be distributed in the same manner as moneys allocated to counties and cities under ORS 366.739 are distributed. [2003 c.618 §55]

366.750 [Renumbered 367.170]

366.755 [Renumbered 367.175]

366.760 [Renumbered 367.180]

(Counties)

366.762 Appropriation from highway funds for counties. There shall be and hereby are appropriated out of the highway fund annually such sums of money established under ORS 366.739 out of all moneys credited to the State Highway Fund by the State Treasurer between July 1 of any year and June 30 of the following year that are subject to the appropriation under this section by ORS 366.739. The appropriation shall be distributed among the several counties for the purposes provided by law. [Formerly 366.525]

366.764 Basis of allocation of appropriation to counties. The sum designated in ORS 366.762 shall be remitted by warrant to the county treasurers of the several counties. The remittance in any year shall be in proportion of the number of vehicles, trailers, semitrailers, pole trailers and pole or pipe trailers registered in each county, to the total number of such vehicles registered in the state as of December 31 of the preceding year, as indicated by motor vehicles registration records. All such vehicles owned and operated by the state and registered under ORS 805.040, 805.045 and 805.060 shall be excluded from the computation in making the apportionment. [Formerly 366.530]

366.765 [Amended by 1967 c.454 §43; 1979 c.293 §7; 1981 c.153 §63; renumbered 366.570 in 2003]

366.766 Remitting appropriation to counties. The appropriation made by ORS 366.762 shall be remitted to the counties on a monthly basis within 35 days after the end of the month for which a distribution is made in an amount determined in ORS 366.739 and 366.762 and credited to the highway fund for such remittance. [Formerly 366.535]

366.768 Advances from highway fund to county. Upon satisfactory showing before the Department of Transportation by any county that the county does not have sufficient funds with which to pay, when due, bonded indebtedness incurred for highway purposes, the department may certify to such fact. Pursuant to the certificate, a warrant shall be drawn in favor of the county against the highway fund in the amount set out in each certificate, which amount so advanced shall be deducted from the next payment due the county under ORS 366.762 to 366.768. [Formerly 366.540]

366.770 [Amended by 1979 c.223 §2; renumbered 366.572 in 2003]

366.772 Allocation of moneys to counties with road funding deficit. (1) Not later than July 31 in each calendar year, the sum of $750,000 shall be withdrawn from the appropriation specified in ORS 366.762, and the sum of $250,000 shall be withdrawn from moneys available to the Department of

Transportation from the State Highway Fund. The sums withdrawn shall be set up in a separate account to be administered by the Department of Transportation.

(2) Not later than July 31 in each calendar year, the sum of $1 million shall be withdrawn from the separate account described in subsection (1) of this section and distributed to counties that had a county road base funding deficit in the prior fiscal year. A county's share of the $1 million shall be based on the ratio of the amount of the county's road base funding deficit to the total amount of county road base funding deficits of all counties.

(3) Moneys allocated as provided in this section may be used only for maintenance, repair and improvement of existing roads.

(4) As used in this section:

(a) "County road base funding deficit" means the amount of a county's minimum county road base funding minus the amount of that county's dedicated county road funding. A county has a county road base funding deficit only if the amount of the dedicated county road funding is less than the amount of the minimum county road base funding.

(b) "Dedicated county road funding" for a county means:

(A) Moneys received from federal forest reserves and apportioned to the county road fund in accordance with ORS 294.060;

(B) State Highway Fund moneys distributed to the county, other than moneys distributed under this section; and

(C) Federal Highway Administration revenues allocated by formula to the county annually under the federal-aid highway program authorized by 23 U.S.C. chapter 1. These moneys do not include federal funds received by the county through a competitive grant process.

(c) "Minimum county road base funding" means $1 million beginning on July 1, 2003, and thereafter means $1 million as adjusted annually on the basis of the Portland-Salem, OR-WA, Consumer Price Index for All Urban Consumers for All Items, as published by the Bureau of Labor Statistics of the United States Department of Labor. [Formerly 366.541]

Note: The amendments to 366.772 (formerly 366.541) by section 20, chapter 618, Oregon Laws 2003, become operative July 1, 2008. See section 21, chapter 618, Oregon Laws 2003. The text that is operative on and after July 1, 2008, is set forth for the user's convenience.

366.772. (1) Not later than July 31 in each calendar year, the sum of $500,000 shall be withdrawn from the appropriation specified in ORS 366.762, and the sum of $250,000 shall be withdrawn from moneys available to the Department of Transportation from the State Highway Fund. The sums withdrawn shall be set up in a separate account to be administered by the Department of Transportation.

(2) Not later than July 31 in each calendar year, the sum of $750,000 shall be withdrawn from the separate account described in subsection (1) of this section and distributed to counties that had a county road base funding deficit in the prior fiscal year. A county's share of the $750,000 shall be based on the ratio of the amount of the county's road base funding deficit to the total amount of county road base funding deficits of all counties.

(3) Moneys allocated as provided in this section may be used only for maintenance, repair and improvement of existing roads.

(4) As used in this section:

(a) "County road base funding deficit" means the amount of a county's minimum county road base funding minus the amount of that county's dedicated county road funding. A county has a county road base funding deficit only if the amount of the dedicated county road funding is less than the amount of the minimum county road base funding.

(b) "Dedicated county road funding" for a county means:

(A) Moneys received from federal forest reserves and apportioned to the county road fund in accordance with ORS 294.060;

(B) State Highway Fund moneys distributed to the county, other than moneys distributed under this section; and

(C) Federal Highway Administration revenues allocated by formula to the county annually under the federal-aid highway program authorized by 23 U.S.C. chapter 1. These moneys do not include federal funds received by the county through a competitive grant process.

(c) "Minimum county road base funding" means $1 million beginning on July 1, 2003, and thereafter means $1 million as adjusted annually on the basis of the Portland-Salem, OR-WA, Consumer Price Index for All Urban Consumers for All Items, as published by the Bureau of Labor Statistics of the United States Department of Labor.

Note: 366.772 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 366 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

366.773 [2001 c.565 §1; renumbered 366.574 in 2003]

366.774 Authorized use of allocation to counties; report by counties to Legislative Assembly. (1) Moneys paid to counties under ORS 366.762 to 366.768 shall be used only for the purposes stated in sections 3 and 3a, Article IX of the Oregon Constitution, and the statutes enacted pursuant thereto including ORS 366.514.

(2) Counties receiving moneys under ORS 366.762 to 366.768 shall report annually to the Legislative Assembly the expenditures of those moneys in each of the following areas:

(a) Administration;

(b) Bicycle paths;

(c) Construction and expansion;

(d) Operations and maintenance;

(e) Other payments;

(f) Payments to other governments; and

(g) Repair and preservation.

(3) The Association of Oregon Counties shall make an annual report to the Legislative Assembly presenting the information required by subsection (2) of this section. The report shall be made to the committees of the Legislative Assembly with primary jurisdiction over transportation matters.

(4) For the purposes of subsection (2) of this section, each county shall account for moneys paid to the county under ORS 366.762 to 366.768 separately from any other county moneys. [Formerly 366.542]

Note: 366.774 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 366 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Note: Sections 1 and 2, chapter 780, Oregon Laws 2003, provide:

Sec. 1. (1) The Association of Oregon Counties shall establish a work group that consists of county officials to study the basis used to allocate the county portion of state highway funds to each county in this state.

(2) The association may appoint persons who are not county officials to the work group.

(3) The purpose of the work group is to study methods within the formula that allocates state highway funds to counties in order to address the following issues:

(a) The financial support that high-growth counties require due to the unique needs of those counties;

(b) The financial support that sparsely populated counties require for basic road programs;

(c) The effect on county road programs of large bridges including, but not limited to, bridges across the Willamette River;

(d) The effect on county road programs of vehicles, including heavy truck tractors and truck trailers, that are registered in a county but are not operated in the county; and

(e) Other issues relating to the allocation of state highway funds to counties.

(4) The work group shall develop and present a report on the results of its study to the appropriate committees of the Seventy-third Legislative Assembly on or before February 1, 2005.

(5) Funds made available to counties under ORS 366.524 [renumbered 366.739] may be used to pay the expenses of the work group. The association may enter into an intergovernmental agreement with the Department of Transportation to obtain the funds.

(6) All agencies of state government, as defined in ORS 174.111, and the League of Oregon Cities are directed to assist the work group in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish the information and advice that members of the work group consider necessary to perform their duties. [2003 c.780 §1]

Sec. 2. Section 1 of this 2003 Act is repealed on January 2, 2006. [2003 c.780 §2]

366.775 [Amended by 1953 c.252 §2; 1979 c.223 §3; renumbered 366.576 in 2003]

366.777 [1999 c.541 §1; renumbered 366.578 in 2003]

366.780 [Repealed by 1981 c.153 §79]

(Cities)

366.785 Definitions for ORS 366.785 to 366.820. As used in ORS 366.785 to 366.820, unless the context requires otherwise:

(1) "Year" means a calendar year.

(2) "City" means only cities of this state which are regularly operating as such through elected governmental officers.

(3) "Population" means population as given in the latest determination of the State Board of Higher Education, except that for a city of more than 100,000 population according to the latest such determination, the term means 74 percent of the number of population given for the city in the determination for computation of its share for 1964, 78 percent for computation of its share for 1965, 82 percent for 1966, 86 percent for 1967, 90 percent for 1968, 94 percent for 1969, 98 percent for 1970; and for 1971 and subsequent years computation shall be made on the basis of full number of population. [Amended by 1961 c.259 §2; 1961 c.653 §1; 1963 c.399 §1]

366.790 Authorized use of appropriation to cities; report by cities to Legislative Assembly. (1) Moneys paid to cities under ORS 366.785 to 366.820 shall be used only for the purposes stated in sections 3 and 3a, Article IX of the Oregon Constitution and the statutes enacted pursuant thereto including ORS 366.514.

(2) Cities receiving moneys under ORS 366.785 to 366.820 shall report annually to the Legislative Assembly the expenditures of those moneys in each of the following areas:

(a) Administration;

(b) Bicycle paths;

(c) Construction and expansion;

(d) Operations and maintenance;

(e) Other payments;

(f) Payments to other governments; and

(g) Repair and preservation.

(3) The League of Oregon Cities shall make an annual report to the Legislative Assembly presenting the information required by subsection (2) of this section. The report shall be made to the committees of the Legislative Assembly with primary jurisdiction over transportation matters.

(4) For the purposes of subsection (2) of this section, each city shall account for moneys paid to the city under ORS 366.785 to 366.820 separately from any other city moneys.

(5) This section does not apply to a city with a population under 5,000. [Amended by 1961 c.653 §2; 1971 c.376 §5; 1985 c.565 §65; 1987 c.899 §4; 1999 c.797 §2]

366.795 [Repealed by 1955 c.237 §1]

366.800 Appropriation from highway fund for cities; amount and source. There shall be and hereby are appropriated out of the highway fund annually such sums of money established under ORS 366.739 out of all moneys credited to the highway fund by the State Treasurer between July 1 of any year and June 30 of the following year that are subject to the appropriation under this section by ORS 366.739. The appropriation shall be distributed among the several cities as provided in ORS 366.785 to 366.820. [Amended by 1967 c.463 §5; 1979 c.344 §10; 1981 s.s c.3 §109; 1983 c.164 §4; 1983 c.338 §922; 1985 c.209 §5]

366.805 Allocation of appropriation to cities. (1) Except as provided in subsection (2) of this section, the appropriation specified in ORS 366.800 shall be allocated to the cities as provided in this subsection. The moneys subject to allocation under this subsection shall be distributed by the Department of Transportation according to the following:

(a) The moneys shall be distributed to all the cities.

(b) Each city shall receive such share of the moneys as its population bears to the total population of the cities.

(2) Each year, the sum of $500,000 shall be withdrawn from the appropriation specified in ORS 366.800 and $500,000 shall be withdrawn from moneys available to the Department of Transportation from the State Highway Fund and set up in a separate account to be administered by the Department of Transportation. The following apply to the account described in this subsection:

(a) Money from the account shall only be used upon streets:

(A) That are not a part of the state highway system;

(B) That are within cities with populations of 5,000 or fewer persons; and

(C) That are inadequate for the capacity they serve or are in a condition detrimental to safety.

(b) All moneys in the account shall be allotted each year.

(c) Subject to paragraph (d) of this subsection, the department shall determine the distribution of the expenditures after considering applications made to it therefor from the cities.

(d) The department may enter into agreements with cities upon the advice and counsel of organizations representing cities to establish:

(A) The method of allotting moneys from the account; or

(B) The method of considering applications from cities and determining distribution based on the applications. [Amended by 1959 c.170 §1; 1985 c.123 §§1,2; 1991 c.355 §1]

366.810 Payment of appropriation to cities. Funds accrued and payable to cities under ORS 366.785 to 366.820 shall be remitted on a monthly basis within 35 days after the end of the month for which a distribution is made by the Department of Transportation to the financial officer of each city. The funds appropriated shall be apportioned on or before the last day of each month by the department, which shall certify to the apportionment. Upon such certification, warrants shall be drawn payable to the cities in the amounts set out. [Amended by 1967 c.454 §44; 1973 c.436 §1; 1975 c.527 §3]

366.815 City to establish state tax street fund; accumulations. (1) A city shall set aside in a state tax street fund all money which it receives under ORS 366.785 to 366.820.

(2) No money allocated to a city may be allowed to accumulate over two successive years unless the city perfects plans for a definite construction program allowable under ORS 366.785 to 366.820 which will necessitate the use of more than two years' estimated allocations. The program shall receive the approval of the Chief Engineer before money allocated may be accumulated. If any city accumulates allocated funds for over two years, and a definite construction program is not established, the funds shall revert to the State Treasurer to be reallocated to other cities as though they were an additional credit to the cities' appropriation under ORS 366.785 to 366.820. [Amended by 1993 c.741 §43]

366.820 Limit to application of ORS 366.785 to 366.815. Nothing in ORS 366.785 to 366.815 relieves the Department of Transportation of its statutory obligations with respect to the construction, reconstruction, maintenance, repair and improvement of streets or roads taken over by the state, or confers on the department jurisdiction or control over roads or streets benefited by ORS 366.785 to 366.815, except as provided therein. [Amended by 2001 c.104 §126]

MISCELLANEOUS PROVISIONS

366.905 "Old Oregon Trail" designation. All that portion of the east and west state highway across the state, commencing at the Idaho state line at Ontario and Nyssa, through Huntington, Baker City, La Grande, Pendleton, Umatilla, The Dalles, Hood River, Portland, Astoria and ending at Seaside on the Pacific Ocean, is designated as the Old Oregon Trail. That portion of the highway from The Dalles to Astoria shall retain its identity as the Columbia River Highway section of the Old Oregon Trail. The road from

Hood River, up the Hood River Valley around Mt. Hood, through Oregon City and on to Portland, shall be known as the Mt. Hood Loop section of the Old Oregon Trail. [Amended by 1991 c.67 §90; 2001 c.508 §1]

366.906 Oregon City designated end of Oregon Trail. (1) Notwithstanding the description in ORS 366.905, Oregon City, in Clackamas County, Oregon, is recognized and designated as the true and correct end of the Oregon National Historic Trail, otherwise known as the Oregon Trail or the Old Oregon Trail, and as such is deserving of preservation as an historic and economic resource for this state and the nation.

(2) That northern portion of Oregon City, Oregon, to the south and east of the confluence of the Clackamas and Willamette Rivers is recognized and designated as the site of the gathering and dispersal of the incoming Oregon Trail pioneers. [1987 c.184 §1]

Note: 366.906 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 366 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

366.907 Findings and declarations concerning Highway 101. The Legislative Assembly finds and declares that:

(1) Highway 101, the coast highway providing the only access to the whole western length of this state, is of economic, recreational, scenic, social and historic importance to the people of the state.

(2) There are many agencies and municipalities with particular regulatory or program interests in Highway 101 and the area it controls, but there is no comprehensive management plan or process to insure that state interests are protected and promoted.

(3) It is important that the State of Oregon develop and maintain a program of management to promote and insure coordinated management of Highway 101 as a whole. [1991 c.235 §2]

366.910 End of Lewis and Clark Trail. That portion of Broadway Street in Seaside which meets the Pacific Ocean shall be known as the end of the Lewis and Clark Trail.

366.915 Authorization to remove Crooked River Highway from state highway system and establish new route. Notwithstanding any other law to the contrary, the Department of Transportation may remove from the state highway system the state highway designated as the Crooked River Highway, otherwise defined as State Highway No. 14, which begins at Prineville and extends southeasterly to a connection with the Central Oregon Highway. Upon the removal of the highway from the state highway system, the department shall be under no further obligation with respect to the construction, reconstruction, maintenance or repair of the highway. Before taking such action, the department shall, in cooperation with the county court of Crook County, provide for the location of and establish as a part of the state highway system another highway between Prineville and the Central Oregon Highway.

366.920 [1965 c.572 §8; 1983 c.324 §17; renumbered 360.115]

366.990 [Renumbered 390.990]