

C-Engrossed Senate Bill 832

Ordered by the Senate June 25
Including Senate Amendments dated March 26 and April 16 and
June 25

Sponsored by Senator NELSON, Representative SIMMONS; Senators L BEYER, BROWN, CARTER, CLARNO, DUNCAN, FERRIOLI, HARTUNG, MESSERLE, Representatives DOYLE, GARDNER, HILL, JOHNSON, MINNIS, G SMITH, STARR, WESTLUND, WITT

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Directs Oregon Health [*Sciences*] **and Science** University to create Oregon Opportunity program to capitalize on biotechnology opportunities. Requires Oregon Health [*Sciences*] **and Science** University to dedicate [*at least*] **not less than** five percent of university's share of net proceeds of royalties and licenses attributable to Oregon Opportunity program to improve medical access for underserved persons and to promote further study of public health, health care ethics and other topics. **Provides exception. Requires university to dedicate not less than five percent of university's share of net proceeds of royalties and licenses attributable to Oregon Opportunity program to payment of bond related costs. Provides exception.** Establishes task force to review impact of Oregon Opportunity program. Authorizes issuance of revenue bonds to be paid from monies from tobacco Master Settlement Agreement. Specifies that bond proceeds are to be used for Oregon Opportunity program costs or capital costs of Oregon Health [*Sciences*] **and Science** University unrelated to Oregon Opportunity program under specified conditions.

Provides that, if House Joint Resolution [*46*] **19** (2001) passes, State Treasurer may issue general obligation bonds to finance Oregon Opportunity program and authority to issue revenue bonds to finance program is repealed.

Authorizes Oregon Health and Science University to create entity that is exempt from federal income tax for purposes of conducting clinical care and practice and for other purposes. Specifies legal status of entity for purposes of certain other statutory provisions.

Declares emergency, effective July 1, 2001.

A BILL FOR AN ACT

1
2 Relating to Oregon Health Sciences University; creating new provisions; amending ORS 353.100;
3 appropriating money; limiting expenditures; and declaring an emergency.

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

5 **SECTION 1. Sections 2 to 18 of this 2001 Act are added to and made a part of ORS**
6 **chapter 353.**

7 **SECTION 2. Sections 2 to 18 of this 2001 Act shall be known and may be cited as the**
8 **Oregon Opportunity Act.**

9 **SECTION 3. As used in sections 2 to 18 of this 2001 Act:**

10 **(1) "Bond-related costs" means:**

11 **(a) The costs and expenses of issuing, administering and maintaining bonds issued under**
12 **sections 2 to 18 of this 2001 Act and the bond program under sections 2 to 18 of this 2001**
13 **Act, including but not limited to:**

14 **(A) Paying or redeeming the bonds;**

15 **(B) Paying amounts due in connection with credit enhancement or any reserve instru-**
16 **ments; and**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **(C) Paying the administrative costs and expenses of the State Treasurer and the Oregon**
2 **Department of Administrative Services, including costs of consultants, attorneys and advi-**
3 **sors retained by the State Treasurer or the Oregon Department of Administrative Services**
4 **for the bonds or the bond program;**

5 **(b) The costs of funding any bond reserves;**

6 **(c) Capitalized interest for the bonds;**

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

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

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

14 **(3) “Indirect financing” means financing capital costs of Oregon Health and Science**
15 **University unrelated to the Oregon Opportunity program so that an equivalent amount of**
16 **moneys may be used to pay capital costs and noncapital costs of the Oregon Opportunity**
17 **program.**

18 **(4) “Master Settlement Agreement” means the Master Settlement Agreement, and re-**
19 **lated documents, entered into on November 23, 1998, by the State of Oregon and leading**
20 **United States tobacco products manufacturers.**

21 **(5) “Noncapital costs” means the costs of programs, scholarships, endowments, research**
22 **infrastructure and recruitment of scientists and researchers, or other noncapital costs or**
23 **expenses, necessary or desirable to create, develop, maintain or directly or indirectly finance**
24 **the Oregon Opportunity program.**

25 **(6) “Oregon Opportunity program” means the program created by Oregon Health and**
26 **Science University pursuant to section 5 of this 2001 Act.**

27 **SECTION 4.** **(1) The purpose of sections 2 to 18 of this 2001 Act is to directly or indirectly**
28 **finance Oregon Health and Science University’s Oregon Opportunity program.**

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

32 **(3) The Legislative Assembly finds that:**

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

37 **(b) Research breakthroughs are expected to fuel tremendous economic growth, and**
38 **Oregon must be poised to capitalize on these breakthroughs. Biotechnology is likely to be the**
39 **next great economic engine in the United States, and the state should take positive action**
40 **to ensure Oregon’s participation in this emerging and important industry. A public commit-**
41 **ment to biomedical and related research in Oregon is necessary to drive the formation, ex-**
42 **ansion and proliferation of biotechnology companies that will commercialize myriad new**
43 **treatments, medications, biomedical equipment and other technology.**

44 **(c) The state should support Oregon Health and Science University in its efforts to con-**
45 **tinue to grow as a research power and an economic engine. Biomedical and technology re-**

1 **search is necessary to create intellectual property, which serves as the raw material for**
2 **biotechnology companies. The state should assist Oregon Health and Science University in**
3 **securing the needed infrastructure to attain a critical mass of research talent in order to**
4 **maximize the number of commercially viable discoveries.**

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

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

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

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

15 **(c) The State Treasurer shall issue pursuant to a grant agreement, as soon as practica-**
16 **ble, revenue bonds during the 2001-2003 and 2003-2005 biennia in an aggregate principal**
17 **amount that produces net proceeds for the Oregon Opportunity program in an amount equal**
18 **to \$165 million plus the amount of any costs and expenses of issuing the bonds.**

19 **(5) To maximize the benefits of low interest tax-exempt bonds, costs of the Oregon Op-**
20 **portunity program may be financed directly or indirectly by the state.**

21 **SECTION 4a.** If Article XI-L of the Oregon Constitution proposed by House Joint Resolution
22 19 (2001) is approved by the people at a special election held throughout this state on the same date
23 as the next biennial primary election, section 4 of this 2001 Act is amended to read:

24 **Sec. 4.** (1) The purpose of sections 2 to 18 of this 2001 Act is to directly or indirectly finance
25 Oregon Health and Science University's Oregon Opportunity program.

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

29 (3) The Legislative Assembly finds that:

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

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

41 (c) The state should support Oregon Health and Science University in its efforts to continue to
42 grow as a research power and an economic engine. Biomedical and technology research is necessary
43 to create intellectual property, which serves as the raw material for biotechnology companies. The
44 state should assist Oregon Health and Science University in securing the needed infrastructure to
45 attain a critical mass of research talent in order to maximize the number of commercially viable

1 discoveries.

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

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

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

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

12 (c) The State Treasurer shall issue pursuant to a grant agreement, as soon as practicable, [*re-*
13 *venue*] **general obligation** bonds during the 2001-2003 and 2003-2005 biennia in an aggregate prin-
14 cipal amount that produces net proceeds for the Oregon Opportunity program in an amount equal
15 to [*\$165*] **\$200** million plus the amount of any costs and expenses of issuing the bonds.

16 (5) To maximize the benefits of low interest tax-exempt bonds, costs of the Oregon Opportunity
17 program may be financed directly or indirectly by the state.

18 **SECTION 5. (1) Oregon Health and Science University shall create the Oregon Opportu-**
19 **nity program to usher in a new era of breakthroughs in health care and biotechnology for**
20 **Oregonians. Through the program, the university shall invest in facilities, endowments, re-**
21 **search infrastructure, recruitment of scientists and researchers, scholarships and programs**
22 **including but not limited to:**

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

25 (b) **Research on autism spectrum disorder;**

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

27 (d) **Hearing research;**

28 (e) **Advanced eye research;**

29 (f) **Aging research;**

30 (g) **Rural health initiatives;**

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

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

34 (2) **Oregon Health and Science University shall dedicate:**

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

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

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

43 (b) **Not less than five percent of the university's share of the net proceeds of royalties**
44 **and licenses attributable to the Oregon Opportunity program to the payment of bond-related**
45 **costs then due and payable by the state and deposit those amounts into the Oregon Health**

1 and Science University Bond Fund established in section 14 of this 2001 Act. If the dedicated
2 amount exceeds the amount necessary to pay bond-related costs, the excess shall be depos-
3 ited in the General Fund.

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

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

10 (b) Does not constitute a lien on the gross revenues of the university as "Lien" and
11 "Gross Revenues" are defined in the Master Trust Indenture.

12 **SECTION 6.** (1) There is established a task force at Oregon Health and Science University
13 to review the impact of the Oregon Opportunity program on the ability of the university to
14 carry out its missions of teaching, patient care, research and community service.

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

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

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

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

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

24 (e) Whether the university's high standard of clinical care and the university's commit-
25 ment to vulnerable populations is compromised or enhanced; and

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

28 (3) The task force shall consist of:

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

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

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

35 (A) The ethics center;

36 (B) Academic programs;

37 (C) Patient care programs;

38 (D) Community service and outreach programs;

39 (E) Financial administration; and

40 (F) Research programs; and

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

42 (A) The public health and health policy community;

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

44 (C) The medical community.

45 (4) The term of office of each legislative member is two years and the term of office of

1 each nonlegislative member is four years. Each member serves at the pleasure of the ap-
2 pointing authority. Before the expiration of the term of a member, the appointing authority
3 shall appoint a successor. A member is eligible for reappointment. If there is a vacancy for
4 any cause, the appointing authority shall make an appointment to become immediately ef-
5 fective for the unexpired term.

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

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

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

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

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

19 (10) Prior to July 1 of each even-numbered year, the task force shall report its findings
20 from the review to the Governor and any interim legislative committees on human re-
21 sources.

22 **SECTION 7.** Notwithstanding the term of office specified by section 6 of this 2001 Act,
23 of the members first appointed to the task force under section 6 of this 2001 Act:

24 (1) By the president of the university:

25 (a) Three shall serve for terms ending June 30, 2003.

26 (b) Three shall serve for terms ending June 30, 2005.

27 (2) By the Governor:

28 (a) One shall serve for a term ending June 30, 2003.

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

30 **SECTION 8.** (1) The State Treasurer, pursuant to this section and ORS 286.031 and
31 288.805 to 288.945, and after the grant agreement described in subsection (13) of this section
32 is entered into, may issue, sell and deliver revenue bonds in one or more series at different
33 times during the 2001-2003 and 2003-2005 biennia for the purposes of directly or indirectly fi-
34 nancing the Oregon Opportunity program. Revenue bonds issued under this section shall be
35 issued by the State Treasurer and shall have such terms and conditions as the State Treas-
36 urer shall determine.

37 (2) The State Treasurer may issue the revenue bonds authorized by this section as soon
38 as practicable after the operative date of this section and after the grant agreement de-
39 scribed in subsection (13) of this section is entered into, on a date that is selected by mutual
40 agreement of the State Treasurer and Oregon Health and Science University.

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

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

45 (a) Establish the maturity schedules, interest rates, including fixed or adjustable interest

1 rate terms, tender or redemption provisions, provisions for capitalized interest and other
2 terms of any revenue bonds issued under this section;

3 (b) Provide that revenue bonds may be issued in different series and that each series
4 may be secured by a lien on and pledge of payments under the Master Settlement Agreement
5 that is superior to, subordinate to or on parity with the lien of the pledge securing other
6 series of revenue bonds issued under this section;

7 (c) Obtain credit enhancement to provide additional security or liquidity for revenue
8 bonds issued under this section, or to provide funding for all or any portion of any debt
9 service reserve account established with respect to such bonds. The state's obligations under
10 any credit enhancement shall be payable from the payments under the Master Settlement
11 Agreement that are pledged thereto;

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

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

18 (f) Enter into covenants for the benefit of bondholders and the providers of credit en-
19 hancement to improve the security of bondholders or providers of credit enhancement, or
20 to maintain the tax-exempt status of interest payable on bonds or credit enhancement. Such
21 covenants may include, but are not limited to, covenants regarding the issuance of additional
22 bonds, the collection and application of payments under the Master Settlement Agreement
23 and the priority of payment of the revenue bonds;

24 (g) Establish one or more debt service reserve accounts for the purpose of paying bond
25 debt service, which debt service accounts may be funded out of the proceeds derived from
26 the issuance and sale of such bonds or directly from payments under the Master Settlement
27 Agreement;

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

30 (i) Apply the proceeds of the revenue bonds to pay any costs and expenses of issuing or
31 administering the revenue bonds; and

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

37 (5) Revenue bonds issued under this section are payable from moneys paid to the state
38 under the Master Settlement Agreement. The State Treasurer may irrevocably pledge and
39 assign moneys paid to the state under the Master Settlement Agreement to secure revenue
40 bonds and credit enhancements. The pledge and assignment may include a direction by the
41 State Treasurer to the escrow agent appointed under the Master Settlement Agreement or
42 to any other party that may be designated to distribute moneys payable to the state under
43 the Master Settlement Agreement that all moneys shall be paid to a bond trustee, escrow
44 agent or other party appointed by the State Treasurer or the Director of the Oregon De-
45 partment of Administrative Services, as directed by the State Treasurer, to receive the

1 moneys as security for, and for the benefit of the holders of, the revenue bonds.

2 (6) Revenue bonds issued under this section do not constitute a debt or general obligation
3 of this state, Oregon Health and Science University or any other political subdivision of this
4 state but are payable from moneys paid to the state under the Master Settlement Agreement
5 and secured solely by moneys paid to the state under the Master Settlement Agreement, by
6 amounts in any debt service reserve account established with respect to revenue bonds is-
7 sued under this section or by any credit enhancement obtained for the revenue bonds issued
8 under this section.

9 (7) Except as described in subsection (13) of this section and section 5 (2)(b) of this 2001
10 Act, Oregon Health and Science University shall have no obligation to pay debt service on
11 any revenue bonds issued under this section or to pay any bond-related costs. A holder of
12 bonds or other similar obligations issued under this section may not have the right to compel
13 the exercise of the ad valorem taxing power of the state to pay principal and interest on such
14 bonds or other similar obligations.

15 (8)(a) The holders of revenue bonds issued under this section shall, upon the issuance of
16 such revenue bonds, have a perfected lien on the payments under the Master Settlement
17 Agreement pledged and assigned to the payment of such bonds. Such lien and pledge shall
18 be valid and binding from the date of issuance of the first series of revenue bonds and shall
19 automatically be perfected without physical delivery, filing or other act. The lien and pledge
20 shall be superior to all subsequent claims or liens on the payments under the Master
21 Settlement Agreement.

22 (b) Notwithstanding paragraph (a) of this subsection, the security documents for any
23 series of revenue bonds issued under this section shall establish the priority of the related
24 series among the liens perfected under paragraph (a) of this subsection on the payments
25 under the Master Settlement Agreement.

26 (9) Notwithstanding ORS 286.505 to 286.545, during the 2001-2003 and 2003-2005 biennia
27 revenue bonds may be issued under this section in an aggregate principal amount that
28 produces net proceeds for the Oregon Opportunity program in an amount that is equal to the
29 sum of \$165 million plus the amount of any costs and expenses of issuing the bonds as de-
30 termined by the State Treasurer. Any revenue bonds issued under this section shall be repaid
31 over a period of 20 years or less.

32 (10) As long as any revenue bonds issued under this section are outstanding, the pro-
33 visions of this section and the provisions of any security documents shall be deemed to be
34 contracts between the state and holders of such bonds. The state:

35 (a) Shall enforce the provisions of the Master Settlement Agreement to the full extent
36 permitted by its terms;

37 (b) May not, except as permitted by the terms of the revenue bonds, amend the Master
38 Settlement Agreement if such amendment or action would substantially impair the rights
39 of the bondholders;

40 (c) May not create any lien or encumbrance on payments under the Master Settlement
41 Agreement that is superior to the liens of the pledges authorized by subsection (8) of this
42 section; and

43 (d) May not give any force or effect to any statute or initiative or referendum measure
44 approved by the electors of the state if to do so would impair existing covenants made with
45 the holders of existing revenue bonds or would impair other obligations or agreements re-

1 **garding the distribution and allocation of payments under the Master Settlement Agreement**
2 **pledged to secure the revenue bonds.**

3 **(11) Proceeds from the sale of revenue bonds under this section are for the purpose of**
4 **financing the Oregon Opportunity program and may be used for any of the following:**

5 **(a) Financing capital costs of the Oregon Opportunity program.**

6 **(b) Financing noncapital costs of the Oregon Opportunity program, but only to the extent**
7 **that bond counsel determines the financing of such noncapital costs will not adversely affect**
8 **the federally tax-exempt status of the revenue bonds under the Internal Revenue Code, as**
9 **amended.**

10 **(c) Paying bond-related costs.**

11 **(d) Indirectly financing capital costs of Oregon Health and Science University unrelated**
12 **to the Oregon Opportunity program if Oregon Health and Science University demonstrates**
13 **to the State Treasurer that Oregon Health and Science University will use an equivalent**
14 **amount of moneys to pay capital costs and noncapital costs of the Oregon Opportunity pro-**
15 **gram and if the State Treasurer determines that such financing will permit the revenue**
16 **bonds issued under this section to be issued on a federally tax-exempt basis and that the**
17 **state will thereby achieve substantial savings on interest rates.**

18 **(12) Oregon Health and Science University shall prepare an annual report that outlines**
19 **expenditures authorized in subsection (11) of this section. Oregon Health and Science Uni-**
20 **versity shall submit the report to the State Treasurer.**

21 **(13) Prior to the initial issuance of any revenue bonds under this section, Oregon Health**
22 **and Science University and the State Treasurer shall enter into a grant agreement in which**
23 **the university agrees to:**

24 **(a) Comply with all requirements to protect the tax-exempt status of any revenue bonds**
25 **issued under this section;**

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

29 **(c) Other terms and conditions as the State Treasurer may require.**

30 **SECTION 9. Section 8 of this 2001 Act becomes operative on June 1, 2002.**

31 **SECTION 10. Prior to the operative dates of sections 8 and 18 of this 2001 Act, the State**
32 **Treasurer and Oregon Health and Science University shall take any necessary action, in-**
33 **cluding preparing and entering into the grant agreements described in section 8 (13) of this**
34 **2001 Act and section 18 (9) of this 2001 Act, to prepare for the issuance, sale and delivery of:**

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

37 **(2) General obligation bonds under section 18 of this 2001 Act after the operative date of**
38 **section 18 of this 2001 Act.**

39 **SECTION 11. On the effective date of House Joint Resolution 19 (2001), section 8 of this**
40 **2001 Act is repealed.**

41 **SECTION 12. (1) The Oregon Opportunity Fund is established in the State Treasury sep-**
42 **arate and distinct from the General Fund. The net proceeds from the sale of revenue bonds**
43 **issued under section 8 of this 2001 Act shall be credited to the Oregon Opportunity Fund.**
44 **Investment earnings received on moneys in the Oregon Opportunity Fund shall be credited**
45 **to the Oregon Opportunity Fund.**

1 **(2) The Oregon Opportunity Fund is continuously appropriated to the Oregon Department**
2 **of Administrative Services for payment pursuant to the grant agreement under section 8 (13)**
3 **of this 2001 Act to Oregon Health and Science University for financing the Oregon Opportu-**
4 **nity program as specified in section 8 (11) of this 2001 Act.**

5 **(3) The Oregon Department of Administrative Services, as directed by the State Treas-**
6 **urer in accordance with the grant agreement, shall disburse amounts in the Oregon Oppor-**
7 **tunity Fund to Oregon Health and Science University.**

8 **SECTION 13.** If Article XI-L of the Oregon Constitution proposed by House Joint Resolution
9 19 (2001) is approved by the people at a special election held throughout this state on the same date
10 as the next biennial primary election, section 12 of this 2001 Act is amended to read:

11 **Sec. 12.** (1) The Oregon Opportunity Fund is established in the State Treasury separate and
12 distinct from the General Fund. The net proceeds from the sale of [*revenue*] **general obligation**
13 bonds issued under section [8] **18** of this 2001 Act shall be credited to the Oregon Opportunity Fund.
14 Investment earnings received on moneys in the Oregon Opportunity Fund shall be credited to the
15 Oregon Opportunity Fund.

16 (2) The Oregon Opportunity Fund is continuously appropriated to the Oregon Department of
17 Administrative Services for payment pursuant to the grant agreement under section [8 (14)] **18 (9)**
18 of this 2001 Act to Oregon Health and Science University for financing the Oregon Opportunity
19 program as specified in section [8 (11)] **18 (7)** of this 2001 Act.

20 (3) The Oregon Department of Administrative Services, as directed by the State Treasurer in
21 accordance with the grant agreement, shall disburse amounts in the Oregon Opportunity Fund to
22 Oregon Health and Science University.

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

26 **(a) The amounts of revenues from the Master Settlement Agreement as determined by**
27 **the Oregon Department of Administrative Services, under the direction of the State Treas-**
28 **urer that are necessary to pay principal, interest and premium scheduled to be paid in that**
29 **fiscal year on the revenue bonds issued under section 8 of this 2001 Act;**

30 **(b) The amounts deposited pursuant to the grant agreement under section 8 (13) of this**
31 **2001 Act;**

32 **(c) Any appropriated or allocated funds;**

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

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

36 (2) **The Oregon Health and Science University Bond Fund is continuously appropriated**
37 **to the Oregon Department of Administrative Services, as directed by the State Treasurer,**
38 **for paying, when due, the principal of and the interest and premium, if any, on outstanding**
39 **revenue bonds, for funding revenue bond reserves and for paying amounts due in connection**
40 **with any instrument authorized by section 8 (4)(c) of this 2001 Act.**

41 (3) **The Oregon Department of Administrative Services shall use amounts in the Oregon**
42 **Health and Science University Bond Fund to pay, when due, the principal and the interest**
43 **and premium, if any, on any revenue bonds, to fund reserves and to pay amounts due under**
44 **instruments authorized by section 8 (4)(c) of this 2001 Act.**

45 **SECTION 15.** If Article XI-L of the Oregon Constitution proposed by House Joint Resolution

1 19 (2001) is approved by the people at a special election held throughout this state on the same date
2 as the next biennial primary election, section 14 of this 2001 Act is amended to read:

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

6 (a) The amounts of revenues from the Master Settlement Agreement as determined by the
7 Oregon Department of Administrative Services, under the direction of the State Treasurer that are
8 necessary to pay principal, interest and premium scheduled to be paid in that fiscal year on the
9 [revenue] **general obligation** bonds issued under section [8] **18** of this 2001 Act;

10 (b) The amounts deposited pursuant to the grant agreement under section [8 (13)] **18 (9)** of this
11 2001 Act;

12 (c) Any appropriated or allocated funds;

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

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

16 (2) The Oregon Health and Science University Bond Fund is continuously appropriated to the
17 Oregon Department of Administrative Services, as directed by the State Treasurer, for paying, when
18 due, the principal of and the interest and premium, if any, on outstanding [revenue] **general obli-**
19 **gation** bonds, for funding [revenue] **general obligation** bond reserves and for paying amounts due
20 in connection with any instrument authorized by section [8 (4)(c)] **18 (4)(c)** of this 2001 Act.

21 (3) The Oregon Department of Administrative Services shall use amounts in the Oregon Health
22 and Science University Bond Fund to pay, when due, the principal and the interest and premium,
23 if any, on any [revenue] **general obligation** bonds, to fund reserves and to pay amounts due under
24 instruments authorized by section [8 (4)(c)] **18 (4)(c)** of this 2001 Act.

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

28 (a) **The amounts of unobligated net revenue bond proceeds as determined by the Oregon**
29 **Department of Administrative Services, after depositing required amounts in the Oregon**
30 **Opportunity Fund and the Oregon Health and Science University Bond Fund;**

31 (b) **The proceeds of any revenue bonds issued to pay bond-related costs;**

32 (c) **Any appropriated or allocated funds; and**

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

35 (2) **The Oregon Health and Science University Bond Administrative Fund is continuously**
36 **appropriated to the Oregon Department of Administrative Services, as directed by the State**
37 **Treasurer, for paying costs and expenses of issuing the revenue bonds issued under section**
38 **8 of this 2001 Act.**

39 (3) **The Oregon Department of Administrative Services may use amounts in the Oregon**
40 **Health and Science University Bond Administrative Fund to pay costs and expenses of issu-**
41 **ing the revenue bonds. Amounts in the fund shall be disbursed upon the written request of**
42 **the Director of the Oregon Department of Administrative Services.**

43 **SECTION 17.** If Article XI-L of the Oregon Constitution proposed by House Joint Resolution
44 19 (2001) is approved by the people at a special election held throughout this state on the same date
45 as the next biennial primary election, section 16 of this 2001 Act is amended to read:

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

4 (a) The amounts of unobligated net [*revenue*] **general obligation** bond proceeds as determined
5 by the Oregon Department of Administrative Services, after depositing required amounts in the
6 Oregon Opportunity Fund and the Oregon Health and Science University Bond Fund;

7 (b) The proceeds of any [*revenue*] **general obligation** bonds issued to pay bond-related costs;

8 (c) Any appropriated or allocated funds; and

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

11 (2) The Oregon Health and Science University Bond Administrative Fund is continuously ap-
12 propriated to the Oregon Department of Administrative Services, as directed by the State Treasurer,
13 for paying costs and expenses of issuing the [*revenue*] **general obligation** bonds issued under section
14 [§] **18** of this 2001 Act.

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

19 **SECTION 18.** (1) **The State Treasurer, pursuant to Article XI-L of the Oregon Constitu-**
20 **tion, after the grant agreement described in subsection (9) of this section is entered into,**
21 **may issue, sell and deliver general obligation bonds in one or more series at different times**
22 **during the 2001-2003 and 2003-2005 biennia for the purposes of directly or indirectly financing**
23 **the capital costs of the Oregon Opportunity program. The State Treasurer may also issue**
24 **general obligation or revenue refunding bonds to refund general obligation bonds issued un-**
25 **der this section. The State Treasurer shall issue the general obligation bonds and shall de-**
26 **termine the terms and conditions.**

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

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

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

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

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

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

44 (d) **Appoint and enter into appropriate contracts with bond counsel in accordance with**
45 **ORS 288.523 and a bond trustee and retain and enter into appropriate contracts for the ser-**

1 vices of financial consultants, underwriters, paying agents, legal counsel and other profes-
2 sional service providers in connection with the issuance and administration of such general
3 obligation bonds;

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

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

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

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

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

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

23 (5) Except as described in subsection (9) of this section and section 5 (2)(b) of this 2001
24 Act, Oregon Health and Science University shall have no obligation to pay debt service on
25 any general obligation bonds issued under this section or to pay any bond-related costs. A
26 holder of bonds or other similar obligations issued under this section may not have the right
27 to compel the exercise of the ad valorem taxing power of the state to pay principal and in-
28 terest on such bonds or other similar obligations.

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

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

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

39 (B) Paying bond-related costs.

40 (C) Indirectly financing capital costs of Oregon Health and Science University unrelated
41 to the Oregon Opportunity program if Oregon Health and Science University demonstrates
42 to the State Treasurer that Oregon Health and Science University will use an equivalent
43 amount of moneys to pay capital costs and noncapital costs of the Oregon Opportunity pro-
44 gram and if the State Treasurer determines that such financing will permit the general ob-
45 ligation bonds issued under this section to be issued on a federally tax-exempt basis and that

1 the state will thereby achieve substantial savings on interest rates.

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

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

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

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

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

15 (c) Other terms and conditions as the State Treasurer may require.

16 **SECTION 19.** Notwithstanding any other law, the amount of \$1 is established for the
17 biennium beginning July 1, 2001, as the maximum limit for payment of expenses by the
18 Oregon Department of Administrative Services from the Oregon Opportunity Fund to Oregon
19 Health and Science University to finance the Oregon Opportunity program.

20 **SECTION 20.** Notwithstanding any other law, the amount of \$1 is established for the
21 biennium beginning July 1, 2001, as the maximum limit for payment of expenses by the
22 Oregon Department of Administrative Services from the Oregon Health and Science Univer-
23 sity Bond Fund for paying the principal of, and the interest and premium on, outstanding
24 revenue bonds, for funding revenue bond reserves and for paying amounts due in connection
25 with any instrument authorized by section 8 (4)(c) of this 2001 Act.

26 **SECTION 21.** If Article XI-L of the Oregon Constitution proposed by House Joint Resolution
27 19 (2001) is approved by the people at a special election held throughout this state on the same date
28 as the next biennial primary election, section 20 of this 2001 Act is amended to read:

29 **Sec. 20.** Notwithstanding any other law, the amount of \$1 is established for the biennium be-
30 ginning July 1, 2001, as the maximum limit for payment of expenses by the Oregon Department of
31 Administrative Services from the Oregon Health and Science University Bond Fund for paying the
32 principal of, and the interest and premium on, outstanding [*revenue*] **general obligation** bonds, for
33 funding [*revenue*] **general obligation** bond reserves and for paying amounts due in connection with
34 any instrument authorized by section [*8 (4)(c)*] **18 (4)(c)** of this 2001 Act.

35 **SECTION 22.** Notwithstanding any other law, the amount of \$1 is established for the
36 biennium beginning July 1, 2001, as the maximum limit for payment of expenses by the
37 Oregon Department of Administrative Services from the Oregon Health and Science Univer-
38 sity Bond Administrative Fund for payment of bond-related costs associated with revenue
39 bonds issued under section 8 of this 2001 Act.

40 **SECTION 23.** If Article XI-L of the Oregon Constitution proposed by House Joint Resolution
41 19 (2001) is approved by the people at a special election held throughout this state on the same date
42 as the next biennial primary election, section 22 of this 2001 Act is amended to read:

43 **Sec. 22.** Notwithstanding any other law, the amount of \$1 is established for the biennium be-
44 ginning July 1, 2001, as the maximum limit for payment of expenses by the Oregon Department of
45 Administrative Services from the Oregon Health and Science University Bond Administrative Fund

1 for payment of bond-related costs associated with [*revenue*] **general obligation** bonds issued under
2 section [8] **18** of this 2001 Act.

3 **SECTION 24. (1) Section 18 of this 2001 Act does not become operative unless the**
4 **amendment to the Oregon Constitution proposed by House Joint Resolution 19 (2001) is ap-**
5 **proved by the people at a special election held throughout this state on the same date as the**
6 **next biennial primary election.**

7 **(2) Section 18 of this 2001 Act and the amendments to sections 4, 12, 14, 16, 20 and 22 of**
8 **this 2001 Act by sections 4a, 13, 15, 17, 21 and 23 of this 2001 Act become operative on the**
9 **effective date of House Joint Resolution 19 (2001).**

10 **SECTION 25. Section 26 of this 2001 Act is added to and made a part of ORS chapter 353.**

11 **SECTION 26. (1) Pursuant to ORS 353.050, Oregon Health and Science University may**
12 **create and maintain an entity that is exempt from federal income tax under section 501(c)(3)**
13 **of the Internal Revenue Code, as amended, for the purpose of conducting clinical care and**
14 **practice and advancing other university missions by the faculty.**

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

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

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

19 **(c) A public provider of health care for purposes of ORS 192.525;**

20 **(d) A public body for purposes of ORS 30.260 to 30.300 and 307.112;**

21 **(e) A public agency for purposes of ORS 200.090; and**

22 **(f) A public corporation for purposes of ORS 307.090.**

23 **SECTION 27. ORS 353.100 is amended to read:**

24 353.100. (1) The provisions of ORS chapters 35, 190, 192, 244, 281 and 295 and ORS 30.260 to
25 30.460, 200.005 to 200.025, 200.045 to 200.090, 236.605 to 236.640, 243.650 to 243.782, 297.040, 307.090
26 and 307.112 shall apply to Oregon Health [*Sciences*] **and Science** University under the same terms
27 as they apply to public bodies other than the state.

28 (2) Except as otherwise provided by law, the provisions of ORS chapters 182, 183, 240, 270, 273,
29 276, 279, 283, 291, 292, 293, 294 and 297 and ORS 180.060, 180.210 to 180.235, 184.305 to 184.345,
30 190.430, 190.480, 190.490, 192.105, 200.035, 236.380, 243.105 to 243.585, 243.696, 278.011 to 278.120,
31 278.315 to 278.415, 281.210 to 281.260, 282.010 to 282.150, 357.805 to 357.895 and 656.017 (2) shall not
32 apply to the university **or any not-for-profit organization or other entity, if the equity of the**
33 **entity is owned exclusively by the university, and if the organization or entity is created by**
34 **the university to advance any of the university's statutory missions.**

35 (3) **The university**, as a distinct governmental entity, [*the university*] **or any organization or**
36 **entity described in subsection (2) of this section** shall not be subject to any provision of law
37 enacted after January 1, 1995, with respect to any governmental entity, unless the provision specif-
38 ically provides that it applies to the university **or to the organization or entity.**

39 **SECTION 28. This 2001 Act being necessary for the immediate preservation of the public**
40 **peace, health and safety, an emergency is declared to exist, and this 2001 Act takes effect**
41 **July 1, 2001.**

42