

**CHAPTER 6**

AN ACT HB 4052  
 [2002 Third Special Session]

Relating to Education Stability Fund; creating new provisions; amending ORS 293.701, 293.761, 293.790, 327.008, 327.711, 348.696, 348.702, 348.703, 348.707, 348.716, 351.690, 461.540, 565.447 and 777.277 and section 2, chapter 835, Oregon Laws 2001, and section 9, chapter 922, Oregon Laws 2001; and prescribing an effective date.

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

**SECTION 1.** (1) On the effective date of this 2002 third special session Act, any moneys in the Education Endowment Fund established under ORS 348.696 (2001 Edition) are transferred to the Education Stability Fund established under ORS 348.696.

(2) The funds transferred under section 4 (9), Article XV, Oregon Constitution, may not be considered declared earnings of the Education Stability Fund for purposes of ORS 348.696.

(3) Notwithstanding ORS 348.696, 348.702, 348.706 and 348.716 and section 9, chapter 922, Oregon Laws 2001, the State Treasurer, for purposes of making the transfer of funds from the Education Stability Fund to the State School Fund as required by section 4 (9), Article XV, Oregon Constitution, may:

(a) Divert funds to the State School Fund that would otherwise be transferred to or from the Oregon Growth Account, the Higher Education Technology Transfer Account, the Oregon Resource and Technology Development Subaccount or any other account of the Education Stability Fund; and

(b) Reduce the amount of funds in the Oregon Growth Account, the Higher Education Technology Transfer Account, the Oregon Resource and Technology Development Subaccount or any other account of the Education Stability Fund.

**SECTION 2.** ORS 348.696 is amended to read:

348.696. Pursuant to section 4 (4)(d), Article XV of the Oregon Constitution, the Education [Endowment] Stability Fund is established separate and distinct from the General Fund. **Except for earnings on moneys in the school capital matching subaccount**, moneys in the fund shall be invested as provided in ORS 293.701 to 293.790. All declared earnings on moneys in the fund shall be transferred and appropriated continuously as follows:

(1) All declared earnings from the Oregon Growth Account to the Higher Education Technology Transfer Fund established in ORS 351.691;

(2) All declared earnings from the Higher Education Technology Transfer Account to the Department of Higher Education;

(3) 75 percent of all declared earnings not described in subsection (1) or (2) of this section to the Oregon Education Fund established by ORS 348.716; and

(4) 25 percent of all declared earnings not described in subsection (1) or (2) of this section to the Oregon Student Assistance Commission for the Oregon Opportunity Grant program under ORS 348.260.

**SECTION 3.** ORS 348.696, as amended by section 28, chapter 922, Oregon Laws 2001, is amended to read:

348.696. Pursuant to section 4 (4)(d), Article XV of the Oregon Constitution, the Education [Endowment] Stability Fund is established separate and distinct from the General Fund. **Except for earnings on moneys in the school capital matching subaccount**, moneys in the fund shall be invested as provided in ORS 293.701 to 293.790. All declared earnings on moneys in the fund shall be transferred and appropriated continuously as follows:

(1) All declared earnings from the Oregon Growth Account to the Higher Education Technology Transfer Fund established in ORS 351.691;

(2) 75 percent of all declared earnings not described in subsection (1) of this section to the Oregon Education Fund established in ORS 348.716; and

(3) 25 percent of all declared earnings not described in subsection (1) of this section to the Oregon Student Assistance Commission for the Oregon Opportunity Grant program under ORS 348.260.

**SECTION 4.** ORS 348.702 is amended to read:

348.702. (1) There is created within the Education [Endowment] Stability Fund the Oregon Growth Account, to which shall be credited 10 percent of the funds transferred under section 4, Article XV, Oregon Constitution, from the Administrative Services Economic Development Fund to the Education [Endowment] Stability Fund. Separate records shall be maintained for moneys in the Oregon Growth Account that are available for the purposes specified in subsection (2) of this section. The account may be credited with such unrestricted appropriations, gifts, donations, grants or contract proceeds from any source, with investments or funds from any source, and with returns on investments made from the account.

(2) The purpose of the Oregon Growth Account is to earn returns for the Education [Endowment] Stability Fund by making investments in or to provide seed capital for emerging growth businesses in key industries.

(3) The investment of funds in the Oregon Growth Account shall be governed by the Oregon Growth Account Board.

**SECTION 5.** ORS 348.703 is amended to read:

348.703. (1) The Oregon Growth Account Board shall contract with one or more management companies to manage and invest the moneys in the Oregon Growth Account. For purposes of this subsection, a contract with a management company

may consist of a partnership agreement under which the Oregon Growth Account Board is the limited partner and the management company is the general partner.

(2) The provisions of ORS 293.726 do not apply to those assets of the Education [Endowment] **Stability** Fund that are held in the Oregon Growth Account. The limitations of ORS 293.726 (6) shall be calculated based only on the balance of the Education [Endowment] **Stability** Fund that does not include the Oregon Growth Account.

(3) A management company selected to manage the Oregon Growth Account shall manage the moneys in the account, subject to investment policies established by the State Treasurer and the investment directives or strategies of the Oregon Growth Account Board, with the care, skill and diligence that a prudent investor acting in a similar capacity and familiar with such investments would use in managing and investing a similar account. The management company shall invest in Oregon an amount that is at least equal to the amount of the principal transferred from the Oregon Growth Account to the management company for investment.

(4) The contract between the board and a management company to manage the Oregon Growth Account and the functions performed under the contract are not subject to the State Personnel Relations Law or ORS chapter 279.

(5) Notwithstanding ORS 348.702 (2), a management company selected to manage the Oregon Growth Account may maintain a portion of the moneys allocated to the account under ORS 348.702 (1) in short-term securities in investments other than those specified in ORS 348.702 (2) during such times as a management company is seeking investments that meet the requirements of ORS 348.702 (2).

(6) The State Treasurer shall annually submit a report to the Governor and to the Legislative Assembly on the investment of moneys in the Oregon Growth Account. The report required by this subsection shall include a summary of the amount of money invested by industrial sector or business classification, by region of this state, by size of investment and by type of investment.

(7) The State Treasurer shall provide to other state agencies any reports on the investment of moneys in the Oregon Growth Account that are necessary to fulfill audit, financial, investment or other reporting requirements to which the Education [Endowment] **Stability** Fund is subject by law or standard accounting principles.

(8) The office of the State Treasurer shall provide staff to the board.

(9) There is continuously appropriated to the board from the Oregon Growth Account those amounts necessary to meet the expenses of the board and the State Treasurer in carrying out the operations of the Oregon Growth Account and the duties of the board and the State Treasurer. The cost to the office of the State Treasurer of providing staff to the board shall be deducted from those amounts paid to the State Treasurer pursuant to ORS 293.718 as re-

imbursement for expenses incurred as investment officer for the Education [Endowment] **Stability** Fund.

(10) The board may enter into contracts for the provision of investment advice or other services that the board deems reasonable and necessary to fulfill the duties of the board. The State Treasurer may enter into contracts for the provision of investment advice or other services that the State Treasurer deems reasonable and necessary to fulfill the duties of the State Treasurer with respect to the Oregon Growth Account. Such contracts are not subject to the State Personnel Relations Law or ORS chapter 279.

**SECTION 6.** Section 9, chapter 922, Oregon Laws 2001, is amended to read:

**Sec. 9.** Notwithstanding [sections 7 (2) and 8 of this 2001 Act] **ORS 348.704 and 348.706 (2)**, the Oregon Growth Account Board shall allocate to the Oregon Resource and Technology Development Sub-account:

(1) Those assets transferred on [the effective date of this 2001 Act] **August 8, 2001**, from the Oregon Resource and Technology Development Account under section 17 [of this 2001 Act], **chapter 922, Oregon Laws 2001**; and

(2) For the 2002-2003 fiscal year, the first \$4 million of the funds credited to the Oregon Growth Account under ORS 348.702 (1) from the funds transferred under section 4, Article XV, Oregon Constitution, from the Administrative Services Economic Development Fund to the Education [Endowment] **Stability** Fund.

**SECTION 7.** ORS 348.707 is amended to read:  
348.707. (1) There is established an Oregon Growth Account Board consisting of:

(a) The State Treasurer or the treasurer's designated representative, who shall be the chairperson of the board.

(b) Three members appointed by the Governor from a list of candidates recommended by the State Treasurer who are qualified by training and experience in the field of venture capital and emerging growth businesses in Oregon.

(c) Three members from the general public appointed by the Governor from a list of candidates recommended by the State Treasurer.

(2) The term of office of each board member appointed by the Governor is three years. However, each member, except the State Treasurer or the treasurer's designated representative, shall serve at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(3) A member of the board may receive reimbursement of expenses under ORS 292.495 (2), but shall not receive compensation under ORS 292.495 (1) or otherwise for participation as a board member.

(4) The State Treasurer may establish investment policies for the Oregon Growth Account. The investment policies may include, but are not limited to:

- (a) The reinvestment of the principal of the account after an original investment;
- (b) The reinvestment of returns from an original investment;
- (c) The retention of amounts for unfunded commitments owed to a management company;
- (d) The determination of when and how earnings are calculated and declared available from the account on behalf of the Education [Endowment] Stability Fund; and
- (e) Other policies that the State Treasurer determines may increase the total earnings of the account over time.

(5) Subject to investment policies established for moneys in the account by the State Treasurer, the board shall have authority to approve or direct specific investments or strategies for the investment of moneys in the Oregon Growth Account and to make investments directly, without the use of a management company, in any form or manner that would be lawful for a private corporation having similar intent. In addition, the board may:

- (a) Acquire, own, hold, dispose of and encumber real or personal property of any nature, both tangible and intangible, or any interest in property, and exercise or acquire any rights in property necessary or desirable to protect or secure any investments in which the account has an interest;
- (b) Trade, buy or sell securities;
- (c) Own, possess, take license in and grant license to patents, copyrights, proprietary processes and other intellectual property, and negotiate and enter into contracts and establish charges for the use of such patents, copyrights, proprietary processes and other intellectual property; and
- (d) Exercise any other powers necessary or desirable for the operation and functioning of the account within the purposes authorized in ORS 348.702.

(6) When performing the board's duties, the board shall exercise the care, skill and diligence that a prudent investor acting in a similar capacity and familiar with such investments would use in managing and investing a similar account.

(7) The State Treasurer shall report on the development of the policies described in subsection (4) of this section to the legislative interim committees on trade and economic development and government finance and tax policy.

**SECTION 8.** ORS 348.716 is amended to read:

348.716. The Oregon Education Fund is established in the State Treasury, separate and distinct from the General Fund. Moneys in the Oregon Education Fund are continuously appropriated to the Oregon Department of Administrative Services for public education and education lottery bond debt service. Seventy-five percent of the [net available] **declared** earnings [on amounts in all accounts] of

the Education [Endowment] **Stability Fund as described in ORS 348.696 (3)** shall be transferred monthly to the Oregon Education Fund as directed by the Director of the Oregon Department of Administrative Services. Investment earnings on amounts in the Oregon Education Fund shall be credited to the Oregon Education Fund. The Legislative Assembly may, but shall be under no legal obligation to, allocate and appropriate amounts in the Oregon Education Fund to pay education lottery bonds. The Director of the Oregon Department of Administrative Services may specify when during any fiscal year amounts shall be transferred from the Oregon Education Fund to be used for public education or education lottery bonds.

**SECTION 8a.** ORS 348.716, as amended by section 8 of this 2002 third special session Act, is amended to read:

348.716. The Oregon Education Fund is established in the State Treasury, separate and distinct from the General Fund. Moneys in the Oregon Education Fund are continuously appropriated to the Oregon Department of Administrative Services for public education and education lottery bond debt service. Seventy-five percent of the declared earnings of the Education Stability Fund as described in ORS 348.696 [(3)] **(2)** shall be transferred monthly to the Oregon Education Fund as directed by the Director of the Oregon Department of Administrative Services. Investment earnings on amounts in the Oregon Education Fund shall be credited to the Oregon Education Fund. The Legislative Assembly may, but shall be under no legal obligation to, allocate and appropriate amounts in the Oregon Education Fund to pay education lottery bonds. The Director of the Oregon Department of Administrative Services may specify when during any fiscal year amounts shall be transferred from the Oregon Education Fund to be used for public education or education lottery bonds.

**SECTION 8b.** The amendments to ORS 348.716 by section 8a of this 2002 third special session Act become operative on July 1, 2011.

**SECTION 9.** ORS 293.701 is amended to read:

293.701. As used in ORS 293.701 to 293.820, unless the context requires otherwise:

- (1) "Council" means the Oregon Investment Council.
- (2) "Investment funds" means:
  - (a) Public Employees Retirement Fund referred to in ORS 238.660;
  - (b) Industrial Accident Fund referred to in ORS 656.632;
  - (c) Consumer and Business Services Fund referred to in ORS 705.145;
  - (d) Employment Department Special Administrative Fund referred to in ORS 657.822;
  - (e) Insurance Fund referred to in ORS 278.425;
  - (f) Funds under the control and administration of the Division of State Lands;

(g) Oregon Student Assistance Fund referred to in ORS 348.570;

(h) Moneys made available to the Commission for the Blind under ORS 346.270 and 346.540 or rules adopted thereunder;

(i) Forest rehabilitation bonds sinking fund referred to in ORS 530.280;

(j) Oregon War Veterans' Fund referred to in ORS 407.495;

(k) Oregon War Veterans' Bond Sinking Account referred to in ORS 407.515;

(L) World War II Veterans' Compensation Fund;

(m) World War II Veterans' Bond Sinking Fund;

(n) Savings and loan association funds in the hands of the Director of the Department of Consumer and Business Services;

(o) Funds in the hands of the State Treasurer that are not required to meet current demands;

(p) State funds that are not subject to the control and administration of officers or bodies specifically designated by law;

(q) Funds derived from the sale of state bonds;

(r) Social Security Revolving Account referred to in ORS 237.490;

(s) Investment funds of the State Board of Higher Education lawfully available for investment or reinvestment;

(t) Local Government Employer Benefit Trust Fund referred to in ORS 657.513;

(u) Elderly and Disabled Special Transportation Fund established by ORS 391.800;

(v) Education [Endowment] **Stability** Fund established by ORS 348.696;

(w) Deferred Compensation Fund established under ORS 243.411; and

(x) Trust for Cultural Development Account established under ORS 359.405.

(3) "Investment officer" means the State Treasurer in the capacity as investment officer for the council.

**SECTION 10.** ORS 293.761 is amended to read:

293.761. The investment officer shall report quarterly to the officer or body having control and administration of each fund included in the investment funds the changes in investments made during the preceding month for the fund. If requested by the officer or body, the investment officer shall furnish to the officer or body the details on the investment transactions for any fund. The investment officer shall separately identify investments held in the Oregon Growth Account established in ORS 348.702, the Oregon Resource and Technology Development Subaccount established in ORS 348.706 and the Higher Education Technology Transfer Account created in section 2, chapter 835, Oregon Laws 2001, as part of the report on the Education [Endowment] **Stability** Fund required by this section.

**SECTION 11.** ORS 293.761, as amended by section 16b, chapter 922, Oregon Laws 2001, is amended to read:

293.761. The investment officer shall report quarterly to the officer or body having control and administration of each fund included in the investment funds the changes in investments made during the preceding month for the fund. If requested by the officer or body, the investment officer shall furnish to the officer or body the details on the investment transactions for any fund. The investment officer shall separately identify investments held in the Oregon Growth Account established in ORS 348.702 and the Oregon Resource and Technology Development Subaccount established in ORS 348.706 as part of the report on the Education [Endowment] **Stability** Fund required by this section.

**SECTION 12.** ORS 293.790, as amended by section 13, chapter 835, Oregon Laws 2001, is amended to read:

293.790. (1) Under authority of section 6, Article XI of the Oregon Constitution, the state, subject to subsection (2) of this section, may hold and dispose of the stock of any company, association or corporation, including stock already received, that is donated or bequeathed and the state, acting by and through the State Board of Higher Education, subject to subsection (2) of this section, may invest and reinvest in the stock of any company, association or corporation, any funds or moneys of the State Board of Higher Education that:

(a) Are or have been donated or bequeathed for higher education purposes;

(b) Are the proceeds from the disposition of stock that is donated or bequeathed for higher education purposes, including stock already received; or

(c) Are dividends paid with respect to stock that is donated or bequeathed for higher education purposes, including stock already received.

(2) The state, including any of its agencies having control of, or authority to invest and reinvest in, any stock described in subsection (1) of this section, in holding, disposing of or investing and reinvesting in such stock, shall be governed by ORS 128.065 and 128.194 to 128.218, notwithstanding the date of acquisition of such stock. Moneys received from the disposition of such stock, including dividends, shall be maintained separate and distinct from the General Fund, and those moneys, including interest earned thereon, are appropriated continuously for the purposes of the donation or bequest and of the investments and reinvestments authorized by subsection (1) of this section and by ORS 351.130. Except as specifically authorized by law, the state or any of its agencies may not purchase stock.

(3)(a) This section does not apply to investment and reinvestment of moneys in the Public Employees Retirement Fund, the Industrial Accident Fund, the Deferred Compensation Fund and the Education [Endowment] **Stability** Fund or to acquisition, retention, management and disposition of investments of those funds as provided in ORS 293.701 to 293.820.

(b) This section does not apply to investment or reinvestment of moneys or stock resulting from the holding and disposing of stock by the state as al-

lowed under section 6 (2), Article XI of the Oregon Constitution.

**SECTION 13.** ORS 327.008 is amended to read:

327.008. (1) There is established a State School Fund in the General Fund. The fund shall consist of moneys appropriated by the Legislative Assembly and moneys [appropriated] **transferred** from the Education [Endowment] **Stability** Fund. The State School Fund is continuously appropriated for the purposes of ORS 327.006 to 327.081, 327.095, 327.099, 327.101, 327.125, 327.137, 334.380, 336.575, 336.580, 336.635, 342.173, 343.243, 343.533, 343.961 and 461.543.

(2) There shall be apportioned from the State School Fund to each school district a State School Fund grant, consisting of the positive amount equal to a general purpose grant and a facility grant and a transportation grant minus local revenue, computed as provided in ORS 327.013.

(3) There shall be apportioned from the State School Fund to each education service district a State School Fund grant as calculated under sections 2 to 7, chapter 695, Oregon Laws 2001.

(4) All figures used in the determination of the distribution of the State School Fund shall be estimates for the same year as the distribution occurs, unless otherwise specified.

(5) Numbers of students in average daily membership used in the distribution formula shall be the numbers as of June of the year of distribution.

(6) A school district may not use the portion of the State School Fund grant that is attributable to the facility grant for capital construction costs.

(7) The total amount of the State School Fund that is distributed as facility grants shall not exceed \$17.5 million in any biennium. If the total amount to be distributed as facility grants exceeds this limitation, the Department of Education shall prorate the amount of funds available for facility grants among those school districts that qualified for a facility grant.

**SECTION 14.** ORS 327.008, as amended by section 13, chapter 695, Oregon Laws 2001, is amended to read:

327.008. (1) There is established a State School Fund in the General Fund. The fund shall consist of moneys appropriated by the Legislative Assembly and moneys [appropriated] **transferred** from the Education [Endowment] **Stability** Fund. The State School Fund is continuously appropriated for the purposes of ORS 327.006 to 327.081, 327.095, 327.099, 327.101, 327.125, 327.137, 336.575, 336.580, 336.635, 342.173, 343.243, 343.533, 343.961 and 461.543.

(2) There shall be apportioned from the State School Fund to each school district a State School Fund grant, consisting of the positive amount equal to a general purpose grant and a facility grant and a transportation grant minus local revenue, computed as provided in ORS 327.013.

(3) There shall be apportioned from the State School Fund to each education service district a

State School Fund grant as calculated under ORS 327.019.

(4) All figures used in the determination of the distribution of the State School Fund shall be estimates for the same year as the distribution occurs, unless otherwise specified.

(5) Numbers of students in average daily membership used in the distribution formula shall be the numbers as of June of the year of distribution.

(6) A school district may not use the portion of the State School Fund grant that is attributable to the facility grant for capital construction costs.

(7) The total amount of the State School Fund that is distributed as facility grants shall not exceed \$17.5 million in any biennium. If the total amount to be distributed as facility grants exceeds this limitation, the Department of Education shall prorate the amount of funds available for facility grants among those school districts that qualified for a facility grant.

**SECTION 15.** ORS 327.711 is amended to read:

327.711. (1) The Legislative Assembly may pay state education lottery bond debt service after the 1997-1999 biennium from earnings on the Education [Endowment] **Stability** Fund. However, no lien or pledge of those earnings shall be made to secure the lottery bonds, and the State of Oregon shall have no legal obligation to pay the lottery bonds from the earnings on the Education [Endowment] **Stability** Fund. Any earnings from the Education [Endowment] **Stability** Fund that are provided by the Legislative Assembly and credited to the Lottery Bond Fund shall be credited against, and shall reduce, the unobligated net lottery proceeds that are required by ORS 286.576 (2)(a) and (b) subsequently to be credited to the Lottery Bond Fund in that fiscal year.

(2) State education lottery bonds shall be issued only at the request of the Superintendent of Public Instruction. State education lottery bonds may be issued in an amount sufficient to provide no more than \$150 million of net proceeds to pay costs of state education projects, plus the amounts required for bond-related costs.

(3) The School Capital Construction, Maintenance and Technology Fund is established in the State Treasury, separate and distinct from the General Fund. The net proceeds from the sale of the state education lottery bonds that are available to pay costs of state education projects shall be credited to the School Capital Construction, Maintenance and Technology Fund. Investment earnings received on amounts in the School Capital Construction, Maintenance and Technology Fund shall be credited to the School Capital Construction, Maintenance and Technology Fund. All moneys from time to time credited to the School Capital Construction, Maintenance and Technology Fund, including any investment earnings, are appropriated continuously to the Department of Education only for distribution to school districts pursuant to ORS 327.731 and for payment of the bond-related costs

that are allocable to state education lottery bonds. Amounts in the School Capital Construction, Maintenance and Technology Fund shall be disbursed upon the written request of the Superintendent of Public Instruction to school districts for state education projects pursuant to ORS 327.731, and upon the written request of the Director of the Oregon Department of Administrative Services to pay for bond-related costs that are allocable to state education lottery bonds.

**SECTION 16.** ORS 351.690 is amended to read: 351.690. The Higher Education Technology Transfer Fund Board shall expend all moneys appropriated and transferred from the Education [Endowment] **Stability** Fund into the Higher Education Technology Transfer Fund for public education in accordance with section 4, Article XV of the Oregon Constitution.

**SECTION 17.** Section 2, chapter 835, Oregon Laws 2001, is amended to read:

**Sec. 2.** (1) There is created within the Education [Endowment] **Stability** Fund the Higher Education Technology Transfer Account, separate and distinct from the General Fund. The Higher Education Technology Transfer Account consists of securities held in accordance with the provisions of section 4, Article XV of the Oregon Constitution, that apply to the investment of moneys in the Education [Endowment] **Stability** Fund, other property received from any source, public or private, and any other moneys appropriated or allocated to the Higher Education Technology Transfer Account by the Legislative Assembly.

(2) The declared earnings from the Higher Education Technology Transfer Account are continuously appropriated to the Department of Higher Education for administrative expenses incurred by the department under sections 1 to 6, **chapter 835, Oregon Laws 2001**, [of this 2001 Act] and for the purposes of transfers to state institutions of higher education under section 5, **chapter 835, Oregon Laws 2001** [of this 2001 Act]. The declared earnings appropriated under this subsection include, but are not limited to:

(a) Proceeds, dividends or securities received as a result of securities received in exchange for technology transfer by a state institution of higher education;

(b) The interest earnings from the account; and

(c) Any other return on investment.

(3) The creation and disbursement of moneys from the Higher Education Technology Transfer Account shall not require an allotment or allocation of moneys pursuant to ORS 291.234 to 291.260.

**SECTION 18.** ORS 461.540 is amended to read: 461.540. (1) There hereby is established in the General Fund of the State Treasury the Administrative Services Economic Development Fund. All moneys transferred from the State Lottery Fund, interest earnings credited to this fund and other mon-

eys authorized to be transferred to this fund from whatever source are appropriated continuously for any of the following public purposes:

(a) Creating jobs;

(b) Furthering economic development in Oregon;

or

(c) Financing public education.

(2) Moneys shall be transferred from the Administrative Services Economic Development Fund to the Education [Endowment] **Stability** Fund [created] established under ORS 348.696 as described in section 4, Article XV of the Oregon Constitution[, as amended by House Joint Resolution 15 (1995)].

(3) As used in this section and section 4, Article XV of the Oregon Constitution:

(a) "Creating jobs" includes, but is not limited to:

(A) Supporting the creation of new jobs in Oregon;

(B) Helping prevent the loss of existing jobs in Oregon;

(C) Assisting with work transition to new jobs in Oregon; or

(D) Training or retraining workers.

(b) "Education" includes, but is not limited to, the Education [Endowment] **Stability** Fund [created] established under ORS 348.696 and specific programs that support the following:

(A) Prekindergartens;

(B) Elementary and secondary schools;

(C) Community colleges;

(D) Higher education;

(E) Continuing education;

(F) Workforce training and education programs;

or

(G) Financial assistance to Oregon students.

(c) "Furthering economic development" includes, but is not limited to, providing:

(A) Services or financial assistance to for-profit and nonprofit businesses located or to be located in Oregon;

(B) Services or financial assistance to business or industry associations to promote, expand or prevent the decline of their businesses; or

(C) Services or financial assistance for facilities, physical environments or infrastructure projects, as defined in ORS 285B.410, that benefit Oregon's economy.

**SECTION 19.** ORS 565.447, as amended by section 3, chapter 4, Oregon Laws 2002 (second special session), is amended to read:

565.447. (1) Subject only to the availability of unobligated net lottery proceeds, there is allocated from the Administrative Services Economic Development Fund to the County Fair Account created under ORS 565.445 an amount equal to one percent of the net proceeds from the Oregon State Lottery, but not to exceed \$1.53 million annually, adjusted biennially pursuant to the change in the Consumer Price Index, as defined in ORS 327.006, between January 1, 2001, and January 1 immediately preceding commencement of the biennium.

(2) The allocation of moneys from the Administrative Services Economic Development Fund under this section is subject to the requirements in section 4, Article XV of the Oregon Constitution, for deposit of 15 percent of the net proceeds from the Oregon State Lottery into the Education [Endowment] **Stability** Fund and into the Parks and Natural Resources Fund and shall be made only after satisfaction or payment of:

(a) Amounts allocated to Westside lottery bonds issued under ORS 391.140 or to the reserves or any refunding related to the Westside lottery bonds in accordance with the priority for allocation and disbursement established by ORS 391.130;

(b) All liens, pledges or other obligations relating to lottery bonds or refunding lottery bonds due or payable during the year for which an allocation is to be made; and

(c) Amounts required by any other pledges of, or liens on, net proceeds from the Oregon State Lottery.

**SECTION 20.** ORS 777.277 is amended to read: 777.277. As used in ORS 777.277 to 777.289:

(1) "Channel Deepening Account" means the account in the Marine Navigation Improvement Fund created by ORS 777.282.

(2) "Channel deepening project" means a project to deepen the deep draft Columbia River navigation channel from an authorized depth of 40 feet.

(3) "Department" means the Economic and Community Development Department.

(4) "Director" means the Director of the Economic and Community Development Department.

(5) "Grant agreement" means the grant agreement described in ORS 777.284.

(6) "Marine Navigation Improvement Fund" means the fund established by ORS 777.267.

(7) "Oregon nonfederal share" means that portion of the cost of the channel deepening project that is allocable to the Oregon sponsors and that is not paid by the federal government, the State of Washington or the Washington sponsors.

(8) "Oregon sponsors" means the Port of Astoria, the Port of St. Helens, the Port of Portland or any agency acting on behalf of the government of the State of Oregon as a financial contributor to the channel deepening project.

(9) "Primary sponsor" means the Port of Portland as representative of the Oregon sponsors.

(10) "Project cooperation agreement" means a written agreement between the United States Government and a nonfederal sponsor that requires the United States Government to construct, and the nonfederal sponsor to share in the cost of, a project

authorized under the Water Resources Development Act or a similar Act of the United States Congress.

(11) "Unobligated net lottery proceeds" means all revenues derived from the operation of the state lottery except for:

(a) The revenues used for the payment of prizes and the expenses of the state lottery as provided in section 4 (4)(d), Article XV of the Oregon Constitution, ORS 461.500 (2) and 461.510 (3) and (4);

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

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

(d) The revenues required by section 4 (4)(d), Article XV of the Oregon Constitution, to be deposited in the Education [endowment] **Stability** Fund established under ORS 348.696;

(e) The revenues required to be allocated to pay lottery bonds authorized by ORS 197.587, 285B.410, 285B.422, 285B.425, 285B.482, 285B.530 to 285B.548 and 390.060 to 390.067, to fund reserves for those bonds and to pay related costs authorized by ORS 197.587, 285B.410, 285B.422, 285B.425, 285B.482, 285B.530 to 285B.548 and 390.060 to 390.067; and

(f) The revenues required to be allocated to pay lottery bonds authorized by ORS 327.700 to 327.711, to fund reserves for those bonds and to pay related costs authorized by ORS 327.700 to 327.711.

(12) "Washington sponsors" means the Port of Vancouver, the Port of Kalama, the Port of Woodland, the Port of Longview or any agency acting on behalf of the government of the State of Washington as a financial contributor to the channel deepening project.

(13) "Westside lottery bonds" means the bonds issued by the state pursuant to the authority granted in ORS 391.140.

**SECTION 21. This 2002 third special session Act does not take effect unless the amendment to the Oregon Constitution proposed by House Joint Resolution 80 (2002 third special session) is approved by the people at a special election held throughout this state as provided in chapter 1, Oregon Laws 2002 (third special session) (Enrolled House Bill 4059). This 2002 third special session Act takes effect on the effective date of that constitutional amendment.**

Approved by the Governor July 29, 2002  
Filed in the office of Secretary of State July 30, 2002  
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