

# House Bill 3182

Sponsored by COMMITTEE ON EDUCATION

## 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 **as introduced**.

Transfers duties, functions and powers of State Board of Education related to community colleges to State Board of Higher Education.

### A BILL FOR AN ACT

1  
2 Relating to community colleges; creating new provisions; amending ORS 294.356, 326.011, 326.051,  
3 326.075, 326.111, 326.310, 326.370, 326.375, 326.550, 326.589, 329.950, 341.005, 341.009, 341.015,  
4 341.019, 341.021, 341.024, 341.025, 341.039, 341.045, 341.055, 341.065, 341.076, 341.085, 341.095,  
5 341.105, 341.115, 341.125, 341.290, 341.315, 341.317, 341.405, 341.420, 341.425, 341.465, 341.527,  
6 341.547, 341.565, 341.569, 341.573, 341.577, 341.579, 341.620, 341.626, 341.635, 341.933, 341.937,  
7 344.070, 344.080, 344.090, 344.120, 344.259, 348.180, 348.270, 351.647, 351.653, 352.370, 353.600,  
8 433.283, 656.046, 659.855, 660.157, 660.162, 660.167, 687.011 and 731.704 and section 1, chapter 653,  
9 Oregon Laws 1997; and appropriating money.

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

11 **SECTION 1. ORS 326.075, 326.370, 326.373, 326.375, 326.380, 326.382, 326.550 and 326.589 and**  
12 **section 2 of this 2005 Act are added to and made a part of ORS chapter 341.**

13 **SECTION 2. (1) In accordance with applicable provisions of ORS chapter 183, the State**  
14 **Board of Higher Education may adopt any rules necessary for the administration of com-**  
15 **munity colleges and the laws that the Department of Community Colleges and Workforce**  
16 **Development is charged with administering.**

17 **(2) The state board, in consultation with the Education and Workforce Policy Advisor and**  
18 **pursuant to ORS chapter 183, may adopt any rules necessary for the administration of laws**  
19 **related to the federal Workforce Investment Act that the Department of Community Col-**  
20 **leges and Workforce Development is charged with administering.**

21 **(3) The state board may apply for federal funds and accept and enter into any contracts**  
22 **or agreements on behalf of the state for the receipt of such funds from the federal govern-**  
23 **ment or its agencies for educational and workforce development purposes.**

24 **SECTION 3. ORS 326.011 is amended to read:**

25 326.011. In establishing policy for the administration and operation of the public elementary and  
26 secondary schools [*and public community colleges*] in the State of Oregon and in carrying out its  
27 duties as prescribed by law, the State Board of Education shall consider the goals of modern edu-  
28 cation, the requirements of a sound, comprehensive curriculum best suited to the needs of the stu-  
29 dents and the public and any other factors consistent with the maintenance of a modern and  
30 efficient elementary and secondary school system [*and community college program*].

31 **SECTION 4. ORS 326.051 is amended to read:**

**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.

1 326.051. Subject to ORS 417.300 and 417.305:

2 (1) In addition to such other duties as are prescribed by law and pursuant to the requirement  
3 of ORS chapter 183, the State Board of Education shall:

4 (a) Establish state standards for public kindergartens and public elementary and secondary  
5 schools consistent with the policies stated in ORS 326.011.

6 (b) Adopt rules for the general governance of public kindergartens and public elementary and  
7 secondary schools [*and public community colleges*].

8 (c) Prescribe required or minimum courses of study.

9 (d) Adopt rules regarding school and interscholastic activities in accordance with standards es-  
10 tablished pursuant to paragraph (f) of this subsection.

11 (e) Adopt rules that provide that no public elementary or secondary school shall discriminate  
12 in determining participation in interscholastic activities. As used in this paragraph,  
13 "discrimination" has the meaning given that term in ORS 659.850.

14 (f) Adopt standards applicable to voluntary organizations that administer interscholastic activ-  
15 ities as provided in ORS 339.430.

16 (g) Adopt rules that will eliminate the use and purchase of elemental mercury, mercury com-  
17 pounds and mercury-added instructional materials by public elementary and secondary schools.

18 (2) The State Board of Education may:

19 (a) Consistent with the laws of this state, accept money or property not otherwise provided for  
20 under paragraph (b) of this subsection, which is donated for the use or benefit of the public  
21 kindergartens and public elementary and secondary schools [*and public community colleges*] and use  
22 such money or property for the purpose for which it was donated. Until it is used, the board shall  
23 deposit any money received under this paragraph in a special fund with the State Treasurer as  
24 provided in ORS 293.265 to 293.275.

25 (b) Apply for federal funds and accept and enter into any contracts or agreements in behalf of  
26 the state for the receipt of such funds from the federal government or its agencies for educational  
27 purposes, including but not limited to any funds available for the school lunch program, for career  
28 education purposes, for professional technical educational purposes, for adult education, for man-  
29 power programs and any grants available to the state or its political subdivisions for general federal  
30 aid for public kindergartens and public elementary and secondary schools [*and public community*  
31 *colleges*] and their auxiliary services, improvement of teacher preparation, teacher salaries, con-  
32 struction of school buildings, administration of the Department of Education and any other educa-  
33 tional activities under the jurisdiction of the State Board of Education.

34 (c) Adopt rules to administer the United States Department of Agriculture's National School  
35 Lunch Program and School Breakfast Program for public and private prekindergarten through grade  
36 12 schools and residential child care facilities.

37 [(3) *The State Board of Education shall provide a separate, identifiable place on its agenda six*  
38 *times a year for community college issues. The state board may also consider matters affecting com-*  
39 *munity colleges at any regular or special meeting.*]

40 **SECTION 5.** ORS 326.075 is amended to read:

41 326.075. [(1)] The [*State Board of Education*] **State Board of Higher Education** shall cooperate  
42 with the Education and Workforce Policy Advisor in [*the development of*] **developing** a state com-  
43 prehensive education plan [*including elementary, secondary and community college education and in*  
44 *review of the board's*] **and in reviewing the state board's** programs and budget. The **state** board  
45 shall submit in timely fashion to the advisor such data as [*is*] **are** appropriate in a form prescribed

1 by the advisor.

2 *[(2) The board shall cooperate with the mediation process administered by the Oregon Student*  
 3 *Assistance Commission pursuant to ORS 348.603 and, if a negotiated resolution cannot be reached by*  
 4 *mediation, comply with the decisions of the commission regarding proposed new post-secondary pro-*  
 5 *grams and proposed new post-secondary locations.]*

6 **SECTION 6.** ORS 326.111 is amended to read:

7 326.111. (1) The Department of Education shall function under the direction and control of the  
 8 State Board of Education with the Superintendent of Public Instruction serving as an administrative  
 9 officer for public **elementary and secondary** school matters.

10 (2) The Department of Education shall consist of:

11 (a) Agencies and officers that are added by law to the Department of Education; and

12 (b) The administrative organizations and staffs required for the performance of the department's  
 13 functions.

14 (3) All administrative functions of the State Board of Education shall be exercised through the  
 15 Department of Education, and the department shall exercise all administrative functions of the state  
 16 relating to supervision, management and control of schools not conferred by law on some other  
 17 agency.

18 **SECTION 7.** ORS 326.310 is amended to read:

19 326.310. *[Except as provided by ORS 326.041, 326.051, 326.375, 341.005, 341.015, 341.440, 341.455,*  
 20 *341.626, 341.655 and 341.933,]* The Superintendent of Public Instruction shall exercise, under the di-  
 21 rection of the State Board of Education, a general superintendence of school officers and the public  
 22 **elementary and secondary** schools. In carrying out the duties of office, the Superintendent of  
 23 Public Instruction shall:

24 (1) Act as administrative officer of the State Board of Education.

25 (2) Act as executive head of the Department of Education and direct and supervise all activities  
 26 of the department.

27 (3) Assist all district school boards and education service district boards in answering questions  
 28 concerning the proper administration of the school laws, the rules of the State Board of Education  
 29 and the ministerial duties of school officers and teachers. The decision of the superintendent shall  
 30 guide school officers and teachers in the performance of their duties relating to the matters decided.  
 31 The superintendent may submit any question to the State Board of Education which shall then de-  
 32 cide the question.

33 (4) Obtain and compile such statistical information relative to the condition and operation of the  
 34 public **elementary and secondary** schools as the superintendent or the state board may consider  
 35 advisable for the advancement of education and for the information of the state board and the pub-  
 36 lic.

37 (5) Appoint, subject to the State Personnel Relations Law and with the approval of the State  
 38 Board of Education, such personnel as may be necessary for the performance of the duties of the  
 39 office of the superintendent. The Superintendent of Public Instruction may designate one or more  
 40 suitable persons to sign or countersign warrants, vouchers, certificates or other papers and docu-  
 41 ments requiring the signature of the superintendent.

42 (6) Administer and supervise adult education programs in the public elementary and secondary  
 43 schools.

44 (7) Perform such other functions as may be necessary to the performance of the duties of the  
 45 superintendent.

1        **SECTION 8.** ORS 326.370 is amended to read:

2        326.370. [(1)] The Department of Community Colleges and Workforce Development shall function  
3 under the direction and control of the [*State Board of Education*] **State Board of Higher Education**  
4 with the Commissioner for Community College Services serving as an administrative officer for  
5 community college **and workforce development** matters.

6        [(2) *The Department of Community Colleges and Workforce Development, in consultation with the*  
7 *Education and Workforce Policy Advisor and pursuant to ORS chapter 183, may adopt any rules*  
8 *necessary for the administration of laws related to the federal Workforce Investment Act that the de-*  
9 *partment is charged with administering.*]

10       **SECTION 9.** ORS 326.375 is amended to read:

11       326.375. (1) The [*State Board of Education*] **State Board of Higher Education** shall appoint a  
12 Commissioner for Community College Services who shall serve at the pleasure of the **state** board.

13       (2) The commissioner shall be a person who by training and experience is well qualified to per-  
14 form the duties of the office and to assist in carrying out the functions of the **state** board under  
15 [ORS 326.041, 326.051, 326.375, 341.005, 341.015, 341.440, 341.455, 341.626, 341.655 and 341.933] **this**  
16 **chapter.**

17       (3) The commissioner shall:

18       (a) Be the executive head of the Department of Community Colleges and Workforce Develop-  
19 ment;

20       (b) Direct and supervise all activities of the Department of Community Colleges and Workforce  
21 Development;

22       (c) Hire staff, as authorized by the state board [*of Education*] to assist in carrying out the duties  
23 of the commissioner. The staff shall be considered employees of the Department of Community Col-  
24 leges and Workforce Development for purposes of ORS chapters 240 and 243; and

25       (d) Be responsible directly to the state board [*of Education*] for those duties enumerated in [ORS  
26 *chapter 341*] **this chapter.**

27       (4) The commissioner, with approval of the state board [*of Education*], shall be responsible for  
28 the representation of community college interests to the Governor, the Legislative Assembly, state  
29 agencies and others. The commissioner, with the approval of the state board, shall be responsible  
30 for submitting community college budget requests and budget reports for the Department of Com-  
31 munity Colleges and Workforce Development to the Legislative Assembly. [*The state board shall in-*  
32 *sure that the budget request for community colleges and for the Department of Community Colleges and*  
33 *Workforce Development are separate and distinct from its other requests to the Legislative Assembly.*]

34       **SECTION 10.** ORS 326.550 is amended to read:

35       326.550. (1) The Commissioner for Community College Services may issue General Educational  
36 Development (GED) certificates to persons who demonstrate satisfactory performance in tests pre-  
37 scribed under subsection (2) of this section or meet the requirements of any prescribed evaluative  
38 procedure.

39       (2) The [*State Board of Education*] **State Board of Higher Education** by rule may prescribe  
40 tests and other appropriate evaluation procedures for the purposes of subsection (1) of this section  
41 and may establish age, residence and other relevant qualifications for applicants.

42       (3) The Department of Community Colleges and Workforce Development may utilize its person-  
43 nel and facilities for the administration of this section, and the state board [*of Education*] may es-  
44 tablish by rule a nonrefundable application fee. The fee may be waived by the state board [*of*  
45 *Education*] in case of hardship.

1 (4) Subject to prior approval of the Oregon Department of Administrative Services and a report  
 2 to the Emergency Board prior to adopting the fee, the fee established under subsection (3) of this  
 3 section [shall] **may** not exceed the cost of administering the program, as authorized by the Legisla-  
 4 tive Assembly within the [board's] budget **of the State Board of Higher Education**, as the budget  
 5 may be modified by the Emergency Board.

6 (5) All moneys received under this section shall be deposited in the State Treasury to the credit  
 7 of the Department of Community Colleges and Workforce Development and shall be used exclusively  
 8 for administration of this section. The Department of Community Colleges and Workforce Develop-  
 9 ment shall keep a record of all moneys deposited in such account. The record shall indicate by  
 10 separate cumulative accounts the source from which the moneys are derived and the individual ac-  
 11 tivity against which each withdrawal is charged.

12 (6) The Commissioner for Community College Services shall consult with the Superintendent of  
 13 Public Instruction on all matters related to evaluation procedures used to measure equivalent  
 14 achievement under this section. The superintendent is authorized to make independent recommen-  
 15 dations on evaluation procedures to the state board [of Education] in those cases where the super-  
 16 intendent's judgment differs from that of the commissioner.

17 **SECTION 11.** ORS 326.589 is amended to read:

18 326.589. (1) A community college [as defined in ORS 341.005] may not disclose the Social Secu-  
 19 rity number of a student who is attending the college.

20 (2) Subsection (1) of this section does not apply if the college discloses the Social Security  
 21 number:

22 (a) At the request of a law enforcement agency or an agency providing support enforcement  
 23 services under ORS 25.080;

24 (b) After obtaining written permission for the disclosure from the student to whom the number  
 25 refers;

26 (c) In the payment of wages or benefits;

27 (d) In the payment or collection of taxes or of a debt owed by the student to whom the number  
 28 refers; or

29 (e) For purposes of statistical analysis.

30 **SECTION 12.** ORS 341.005 is amended to read:

31 341.005. As used in this chapter, unless the context otherwise requires:

32 (1) "Academic year" means the year beginning July 1 of each year and ending June 30 of the  
 33 following year running concurrently with the fiscal year.

34 (2) "Board" means the board of education of a community college district.

35 (3) "Board member" means a member of the board of education of a community college district.

36 (4) "Commissioner" means the Commissioner for Community College Services appointed under  
 37 ORS 326.375.

38 (5) "Community college" means a public institution operated by a community college district for  
 39 the purposes of providing courses of study limited to not more than two years' full-time attendance,  
 40 with the exception of technical programs in which the curriculum may require more than two years  
 41 of attendance but less than four years, and designed to meet the needs of a geographical area by  
 42 providing educational services, including but not limited to professional technical education pro-  
 43 grams or lower division collegiate programs.

44 (6) "Community college district" or "district" means a district formed under this chapter to op-  
 45 erate one or more community colleges or to secure educational services available at a community

1 college. “Community college district” includes a community college service district.

2 (7) “Full-time equivalent student” means a student or combination of several students who car-  
 3 ries or carry among them, within a single academic year, a minimum number of clock hours of in-  
 4 struction, in any program, to be specified by rule by the [*State Board of Education*] **State Board**  
 5 **of Higher Education**.

6 (8) “Operating expenses” means the sum of the expenditures of a community college district for  
 7 administration, instruction, necessary student services, operation and maintenance of plant and fixed  
 8 charges, as determined in accordance with the rules of the state board [*of Education*].

9 (9) “Paying agent and registrar” means the county treasurer or county fiscal officer of the  
 10 county in which the chief administrative officer of the community college district maintains the ad-  
 11 ministrative office.

12 (10) “Petitioning territory” means a community college district petitioning to have an area out-  
 13 side the district included in the district or to have an area inside the district excluded from the  
 14 district, or an area outside the district petitioning to be included within the district.

15 (11) “Principal county” means the county in which the chief administrative officer of the com-  
 16 munity college district maintains the administrative office.

17 (12) “State board” means the [*State Board of Education*] **State Board of Higher Education**.

18 **SECTION 13.** ORS 341.009 is amended to read:

19 341.009. The Legislative Assembly finds that:

20 (1) The community college is an educational institution which is intended to fill the institutional  
 21 gap in education by offering broad, comprehensive programs in academic as well as professional  
 22 technical subjects. It is primarily designed to provide associate or certificate degree programs for  
 23 some, serve a transitional purpose for others who will continue baccalaureate or other college work,  
 24 provide the ability to enter the workforce immediately and serve to determine future educational  
 25 needs for other students. It can provide means for continuation of academic education, professional  
 26 technical training or the attainment of entirely new skills as demands for old skills and old occu-  
 27 pations are supplanted by new technologies. It may also provide the means to coordinate courses  
 28 and programs with high schools to enhance the Certificate of Advanced Mastery and to accommo-  
 29 date successful transition to college degree programs.

30 (2) Each community college should be so located as to be within commuting time of a substantial  
 31 majority of its students. As an economical method of providing education close to the student’s  
 32 home, the community college should remain a commuting institution.

33 (3) The community college should establish its organizational patterns to maintain a unique  
 34 quality of flexibility and the ability to change to meet changing needs.

35 (4) The community college is a post-high-school institution under the general supervision of the  
 36 [*State Board of Education*] **State Board of Higher Education**. It should not be a “starter” institu-  
 37 tion intended to evolve into a four-year baccalaureate institution. It should be concerned with pro-  
 38 grams terminating before reaching the baccalaureate degree.

39 (5) The community college should continue to be prohibited by law from becoming a  
 40 baccalaureate degree granting institution.

41 (6) Admission to the community college should be open to high school graduates or to non-high  
 42 school graduates who can profit from the instruction offered.

43 (7) There should be close cooperation between those directing the community college program  
 44 and those responsible for higher education, so that lower-division college transfer programs of the  
 45 community college will provide adequate preparation for entering baccalaureate degree granting

1 programs, and so that students will be able to transfer with a minimum of difficulty.

2 (8) The community college should offer as comprehensive a program as the needs and resources  
 3 of the area which it serves dictate. Cost to student and quality of instruction in established private  
 4 institutions should be among the factors in determining necessary duplication of effort.

5 (9) It should be the policy of the community college to open its facilities and make available its  
 6 resources to the high schools of its area on a sound contractual basis, for appropriate secondary  
 7 or transitional courses, either academic or professional technical, when it is within its ability to  
 8 provide facilities and it is determined that the high school cannot or does not offer them.

9 (10) Programs designed to meet the needs of the area served should be based on the actual ed-  
 10 ucational and service needs of the district. Specific professional technical courses should be related  
 11 not only to the employment opportunities of the area but of the state and nation as well. Such de-  
 12 termination should be made in consultation with representatives of labor, business, industry, agri-  
 13 culture and other interested groups.

14 (11) The [*State Board of Education*] **state board** should be responsible for coordinating the  
 15 community college program of the state and should have general supervisory responsibilities for that  
 16 program. The [*State Board of Education*] **state board** should prepare estimates and make the re-  
 17 quests for legislative appropriations for a reasonable and consistent basis of support and establish  
 18 standards for the distribution of that support.

19 (12) The initiative for the establishment of new community colleges should come from the lo-  
 20 calities to be served, as a response to demonstrated educational needs of an area. However, these  
 21 localities must not only be willing to assume the responsibility for the institutions but must be able  
 22 to provide resources needed for an adequate educational and service program.

23 (13) The governing board of the community college should be charged with the policy-making  
 24 function. With respect to educational programming, the governing board should in cooperation with  
 25 the [*State Board of Education*] **state board**:

- 26 (a) Identify educational needs of the district; and
- 27 (b) Bring together the resources necessary to meet the needs.

28 (14) The state should maintain a policy of substantial state participation in community college  
 29 building costs and the maintenance of an adequate level of state support for operation. However,  
 30 no state funds should be appropriated for buildings such as dormitories or athletic facilities for  
 31 spectator sports. The district should provide a substantial portion of the funds for capital improve-  
 32 ment as well as for operation of a community college.

33 (15) State appropriations for community colleges shall be made separately from those for other  
 34 segments of education.

35 (16) The formula for the distribution of funds for operating costs should reflect the heavier op-  
 36 erating costs and capital outlay for certain professional technical courses. Federal funds received  
 37 for professional technical training, adult basic education, workforce development or other federal  
 38 initiatives should be used for those purposes only and be distributed separately from funds appro-  
 39 priated by the state and should be exempted from the computations of the present distribution for-  
 40 mula for operating costs.

41 (17) The cost of education to the individual should be sufficiently low to permit students of  
 42 low-income families to attend. This is particularly true of tuition costs. However, students should  
 43 pay an amount sufficient to provide an incentive to profit from the instructional program offered.

44 (18) Any eligible Oregon resident should have the right to attend a community college even  
 45 though not residing in a district operating one, subject to the right of the governing board to limit

1 the size of classes and to give preference to students residing in the district. Local school districts  
 2 and education service districts should have the authority to negotiate the terms and conditions with  
 3 the governing boards for the enrollment of students residing in such areas.

4 **SECTION 14.** ORS 341.015 is amended to read:

5 341.015. The [*State Board of Education*] **State Board of Higher Education** shall adopt guide-  
 6 lines for the orderly development and management of community college districts, including guide-  
 7 lines for personnel policy formulation, accounting procedures and student record keeping and  
 8 privacy procedures.

9 **SECTION 15.** ORS 341.019 is amended to read:

10 341.019. (1) All areas within this state shall be served by a community college district. Such  
 11 services may be provided either:

- 12 (a) Directly by formation of a community college district; or
- 13 (b) Indirectly by contract with an existing community college district.

14 (2) The Department of Community Colleges and Workforce Development shall fix responsibility  
 15 for serving each area that is not within a community college district. Where feasible, each area shall  
 16 be a whole county or a group of counties or that part of a county not already in a community col-  
 17 lege district.

18 (3) In order to obtain the services described in subsection (1)(b) of this section, residents of a  
 19 nondistrict area must indicate their interest in receiving services by requesting formation of a local  
 20 advisory committee and seeking the advice and counsel of the Department of Community Colleges  
 21 and Workforce Development.

22 (4) The [*State Board of Education*] **State Board of Higher Education** by rule shall establish  
 23 standards for determining when there is sufficient interest among the residents of a nondistrict area  
 24 to warrant appointment of a local advisory committee.

25 (5) When the Department of Community Colleges and Workforce Development has made the de-  
 26 termination under subsection (4) of this section, the department and the interested residents of the  
 27 nondistrict area shall apply jointly to the governing body of the county for the appointment of a  
 28 local advisory committee.

29 (6) Upon application, the governing body of the county shall appoint a local advisory committee  
 30 and shall [*insure*] **ensure** that the committee is broadly representative of the nondistrict area.

31 (7) If the nondistrict area involves two or more counties, the governing body of each county  
 32 shall appoint members to the local advisory committee in proportion to the number of county resi-  
 33 dents within the nondistrict area.

34 (8) The governing body of a county making appointments under subsection (6) or (7) of this  
 35 section shall not be obligated to fund any part of the budget described in ORS 341.021 (3).

36 (9) The duties of the local advisory committee shall include, but need not be limited to, advising  
 37 the officials of the community college district serving the nondistrict area on the educational needs  
 38 of the area.

39 (10) As used in ORS 341.019 to 341.022, “community college district” includes a community col-  
 40 lege service district.

41 **SECTION 16.** ORS 341.021 is amended to read:

42 341.021. (1) The Department of Community Colleges and Workforce Development shall invite  
 43 existing community college districts to submit proposals for the provision of service to an area that  
 44 has officially indicated its interest in receiving service.

- 45 (2) The responsibilities of the host community college district shall include:

1 (a) Preparing a written agreement for services to be provided to nondistrict areas using a format  
 2 specified by the Department of Community Colleges and Workforce Development; and

3 (b) Acting as the fiscal agent for agreements including establishing tuition and fees for services  
 4 offered under terms of an agreement.

5 (3) Agreements between the community college district and nondistrict entities as listed in ORS  
 6 341.315 shall include an annual budget setting forth both revenue and expenditures. The budget shall  
 7 be based upon the following conditions:

8 (a) Subject to ORS 341.022, eligible full-time equivalent student enrollment produced under the  
 9 agreement may be claimed for state reimbursement purposes by the community college district.  
 10 Such reimbursement shall come from the Community College Support Fund established in ORS  
 11 341.620 and shall be distributed as directed in ORS 341.626 and the rules of the [*State Board of*  
 12 *Education*] **State Board of Higher Education**.

13 (b) A share of the budget shall be provided by those individuals or agencies receiving service  
 14 under this agreement as specified by rule of the [*State Board of Education*] **state board** adopted  
 15 under ORS 341.024 (3).

16 (4) Agreements developed under this section shall be wholly supported by Community College  
 17 Support Fund reimbursement, nondistrict student tuition and nondistrict resources.

18 **SECTION 17.** ORS 341.024 is amended to read:

19 341.024. The [*State Board of Education*] **State Board of Higher Education** shall adopt rules to  
 20 implement ORS 341.019 to 341.024. The rules shall provide:

- 21 (1) Standards for accepting proposals for service;
- 22 (2) Procedures providing the form of agreements and for recording them;
- 23 (3) Standards for cash and in-kind contributions by nondistrict areas;
- 24 (4) Standards as required by ORS 341.019 (4); and
- 25 (5) Other rules necessary to implement ORS 341.019 to 341.024.

26 **SECTION 18.** ORS 341.025 is amended to read:

27 341.025. (1) Whenever the electors registered in contiguous territory desire the formation of a  
 28 community college district, they may sign a petition requesting the formation of such a district and  
 29 present it to the [*State Board of Education*] **State Board of Higher Education**.

30 (2) The petition must be substantially in the form established by the state board which shall  
 31 furnish the petition form and:

32 (a) Must contain the minimum number of signatures fixed by the state board of 500, or 10 per-  
 33 cent of the electors registered in each county or part of a county within the designated territory,  
 34 whichever is the lesser;

35 (b) Must designate the boundaries of the territory to be included in the proposed district which  
 36 may include all or part of the territory lying within the boundaries of a school district and may be  
 37 located in more than one county;

38 (c) Must request that the territory be organized into a district;

39 (d) May specify or reserve the right to specify the location for the proposed community college  
 40 or may request the state board to determine the location;

41 (e) Must specify the method of nomination and election of the board of education of the proposed  
 42 district from among the methods described in ORS 341.327; and

43 (f) Must contain any other information required by rules of the state board.

44 **SECTION 19.** ORS 341.039 is amended to read:

45 341.039. (1) A petition submitted pursuant to ORS 341.025 may specify that the proposed district

1 be organized as a community college service district. The formation of a community college service  
 2 district shall comply with the provisions of ORS 341.025 to 341.125. A petition affecting a territory  
 3 that, in the judgment of the Commissioner for Community College Services, will not generate an  
 4 annual enrollment in excess of 1,000 full-time equivalent students after three years of operation shall  
 5 be considered to be a petition for the formation of a community college service district.

6 (2) If formed, a community college service district shall in all respects be governed by the laws  
 7 applicable to community college districts with the following exceptions:

8 (a) Notwithstanding ORS 341.675, community college service districts formed after July 1, 1997,  
 9 may not incur bonded indebtedness for any purpose. This limitation shall not be construed to pro-  
 10 hibit lease-purchase arrangements or other lawful forms of capital financing. A community college  
 11 service district may hold and own buildings and grounds acquired through gifts or financing methods  
 12 authorized by this section.

13 (b) The board of education for a community college service district shall annually review the  
 14 programs and services of the service district. This review shall have as its purpose a determination  
 15 of which services can most effectively and economically be delivered directly and which services can  
 16 best be delivered through contracting arrangements. The direct hiring of faculty and staff is ex-  
 17 pressly permitted.

18 (3) After having been in operation for at least three years, a community college service district  
 19 may submit to the electors of the district the question of whether the district shall operate as a  
 20 community college district.

21 (4) Prior to submitting the question to the electors, the community college service district must  
 22 have been in operation for three years, and must have secured the approval of the [*State Board of*  
 23 *Education*] **State Board of Higher Education** to hold the election. Before granting approval, the  
 24 state board must find:

25 (a) The service district has acquired stability as demonstrated by a continuity of management,  
 26 regularly adopted policies and procedures and adequate financial resources; and

27 (b) The service district has adopted a sound comprehensive plan that sets out the district's in-  
 28 structional and capital plans for five years.

29 **SECTION 20.** ORS 341.045 is amended to read:

30 341.045. (1) The [*State Board of Education*] **State Board of Higher Education** shall examine the  
 31 petition to determine whether it is complete. If the petition is complete and if formation of the dis-  
 32 trict is consistent with the overall plan for all education in the state, the state board shall under-  
 33 take a study of the feasibility of a community college in the geographical area proposed by the  
 34 petition, including but not limited to:

35 (a) Educational needs of the area.

36 (b) Potential enrollment levels.

37 (c) The rate of operating taxes that is required to meet the local share of operating and capital  
 38 expenses and that would, if adopted, be the district's permanent rate limit for operating taxes, in-  
 39 cluding whether the proposed rate bears a reasonable relationship to the permanent rate limit of  
 40 operating community college districts of similar size and circumstance to the proposed new district.  
 41 If the proposed rate is substantially below the rate of similar operating districts, the feasibility study  
 42 shall explicitly detail how the proposed new district intends to provide a comprehensive community  
 43 college program.

44 (d) Relationship of the proposed district to the overall plan for all education in the state.

45 (e) Boundaries of the proposed district.

1 (f) The appropriateness of the proposed name of the community college district or the community  
 2 college, if a name is proposed, in order to determine that the proposed name is not misleading,  
 3 confusing or grossly inappropriate.

4 (2) Upon completion of its study, the state board shall set a date for a public hearing on the  
 5 petition and study and shall give notice of the hearing in the manner provided in ORS 341.357.

6 (3) The notice of hearing shall state:

7 (a) A study has been conducted on a proposed district.

8 (b) The boundaries of the proposed district.

9 (c) Whether the proposed community college district specifies providing its courses through  
 10 contract with agencies authorized to enter into such contracts.

11 (d) The time and place set for the hearing on the petition.

12 **SECTION 21.** ORS 341.055 is amended to read:

13 341.055. (1) At the time designated in the notice, the [*State Board of Education*] **State Board**  
 14 **of Higher Education** or its authorized representative shall conduct a public hearing on the study  
 15 and may adjourn the hearing from time to time. The state board may alter the boundaries set forth  
 16 in the petition submitted under ORS 341.025 to include all territory the residents of which will be  
 17 materially benefited by formation of the community college district as determined by its study. The  
 18 state board [*shall*] **may** not modify the boundaries of the district as set forth in the petition so as  
 19 to exclude from the district any territory the residents of which will be materially benefited by  
 20 formation of the district, nor may there be included in the proposed district any territory the resi-  
 21 dents of which will not be materially benefited.

22 (2) If the **state** board concludes that any territory has been improperly included or omitted from  
 23 the proposed community college district and that electors within the included or omitted territory  
 24 have not appeared at the hearing, the **state** board shall continue further hearing on the study and  
 25 shall order notice given to the nonappearing electors requiring them to appear and show cause why  
 26 their territory should not be excluded or included in the proposed district. The notice shall be given  
 27 either in the same manner as notice of the original hearing was given or by personal service on each  
 28 nonappearing elector. If notice is given by personal service, such service shall be made at least 10  
 29 days prior to the date fixed for the hearing.

30 **SECTION 22.** ORS 341.065 is amended to read:

31 341.065. If, in the opinion of the [*State Board of Education*] **State Board of Higher Education**,  
 32 the study and the testimony presented at the hearing or hearings held under ORS 341.055 indicate  
 33 that the formation of a community college district as petitioned is not warranted under the policies  
 34 set forth by ORS 341.009, the state board shall order dismissal of the petition. An appeal from this  
 35 order may be taken within 60 days in the manner provided in ORS 183.480.

36 **SECTION 23.** ORS 341.076 is amended to read:

37 341.076. (1) If, upon final hearing of the study under ORS 341.055, the [*State Board of*  
 38 *Education*] **State Board of Higher Education** approves formation of a community college district,  
 39 with boundaries either as originally presented or as altered pursuant to the hearing, the state board  
 40 shall make its recommendation to the Legislative Assembly in an order describing the exterior  
 41 boundaries and the zone boundaries for the election of members of the board of education of the  
 42 community college district, if any. An appeal from the recommendation may be taken within 60 days  
 43 in the manner provided in ORS 183.480. If no appeal from this recommendation is filed within 60  
 44 days after the date of the recommendation, the recommendation becomes final.

45 (2) If an appeal is filed, the recommendation becomes final on the date the recommendation is

1 affirmed by the court. However, if the recommendation is not affirmed, the state board may not  
2 submit its recommendation to the Legislative Assembly but may reconsider the conclusions of its  
3 study and if the state board revises those conclusions, the state board may set a date for a new  
4 hearing.

5 (3) Upon receipt of the final recommendation, the Legislative Assembly shall approve or disap-  
6 prove the recommendation. If the recommendation is approved, an election under ORS 341.085 shall  
7 be held. If the recommendation is disapproved, the state board may revise its recommendation and  
8 resubmit a final recommendation to the Legislative Assembly but not sooner than 60 days after the  
9 action of disapproval was taken.

10 **SECTION 24.** ORS 341.085 is amended to read:

11 341.085. (1) An election for the purpose of presenting the question of formation of a district and  
12 establishing a permanent rate limit for operating taxes and the boundaries of the zones, if the zones  
13 were recommended by the [*State Board of Education*] **State Board of Higher Education**, shall be  
14 held to submit the question to the electors registered in the proposed district designated in the  
15 recommendation of the state board. The election shall be held not sooner than the 90th day after  
16 the effective date of the appropriation required by ORS 341.102. The election date shall be uniform  
17 throughout the proposed district, and shall be set by the state board on a date specified in ORS  
18 255.345. However, if the question of establishing a permanent rate limit for operating taxes is to be  
19 submitted, the election must be held on the same date as the next primary election or the next  
20 general election, as determined by the state board.

21 (2) ORS chapter 255 and ORS 250.035 and 250.036 govern the notice and conduct of an election  
22 under this section. The state board shall be the district elections authority for an election conducted  
23 under this section. Notwithstanding ORS 255.305, the state board shall pay the expenses incurred  
24 for the election.

25 (3) An elector registered in a precinct or in the portion of a precinct which is located within  
26 the boundaries of the proposed district may vote on any matter arising at the election under sub-  
27 section (1) of this section.

28 **SECTION 25.** ORS 341.095 is amended to read:

29 341.095. (1) The [*State Board of Education*] **State Board of Higher Education** shall include as  
30 a part of the election called for formation of a district the question of a permanent rate limit for  
31 operating taxes to finance the district's share of operating and capital expenses. The rate limit shall  
32 be specified by the state board as a result of its study and the hearing held under ORS 341.055. The  
33 state board may also include the question of incurring indebtedness to pay organizational expenses  
34 of the district between the time the district is approved and the first budget is adopted. If the  
35 question of incurring indebtedness is approved, the district may borrow money on its negotiable,  
36 short-term, promissory notes in an aggregate amount not to exceed the limit approved at the  
37 election and may, notwithstanding ORS 294.326, expend such money without the preparation and  
38 adoption of a budget.

39 (2) In preparing its first budget, the board of the district shall provide for the repayment of the  
40 indebtedness incurred for organizational expenses under subsection (1) of this section.

41 **SECTION 26.** ORS 341.105 is amended to read:

42 341.105. When at the request of the [*State Board of Education*] **State Board of Higher Educa-**  
43 **tion** the county clerk of the principal county, in consultation with county clerks of the affected  
44 counties, prepares a list or lists of names and addresses of the electors registered in the proposed  
45 district, the Department of Community Colleges and Workforce Development is authorized to pay

1 the charge as determined under ORS 255.305.

2 **SECTION 27.** ORS 341.115 is amended to read:

3 341.115. (1) If the vote is in favor of the formation of the community college district and estab-  
 4 lishes a permanent rate limit for operating taxes for the district, the [*State Board of Education*]  
 5 **State Board of Higher Education:**

6 (a) Shall proclaim not later than the second regular meeting of the state board following the  
 7 **state** board's determination from the election results that a community college district has been  
 8 formed; and

9 (b) Shall furnish any affected county assessor with a copy of the proclamation.

10 (2) If the location of the community college or zone boundaries are specified on the ballot, and  
 11 the vote favors formation, the state board shall include such location and boundaries in its procla-  
 12 mation.

13 (3) If the vote is in favor of the formation of a community college district but opposed to a  
 14 permanent rate limit at the rate submitted, the district shall not be formed.

15 **SECTION 28.** ORS 341.125 is amended to read:

16 341.125. (1) The first board of education of a district shall be elected at the same election as the  
 17 election at which votes are cast for the formation of the district. Nominations for the board of ed-  
 18 ucation positions to be filled by nomination and election at-large shall be made by petition request-  
 19 ing that such person's name be placed on the ballot and signed with the signatures of at least 50  
 20 electors registered in the proposed district. If the district has been zoned and the position is to be  
 21 filled by nomination or election by zone, the petition shall be signed by at least 25 electors regis-  
 22 tered in the zone. The petition shall be presented to the [*State Board of Education*] **State Board**  
 23 **of Higher Education** at least 70 days prior to the election. Upon receipt of petitions [*which*] **that**  
 24 comply with applicable law, the state board shall cause the names of such nominees to be placed  
 25 upon the ballot.

26 (2) Seven members shall be elected to the first board, to serve terms of four and two years re-  
 27 spectively in accordance with the number of votes each receives with the three members receiving  
 28 the largest number of votes serving the four-year terms. The terms of office of the members of the  
 29 first board shall be computed from the date of June 30 subsequent to the date of their election, but  
 30 the members shall take office immediately following the election. If for any reason a district is not  
 31 formed, the election of board members for that proposed district is void.

32 (3) If the district has been zoned, the state board shall designate the positions to be nominated  
 33 or elected by zone and shall specify the length of the term to be served by each member of the first  
 34 board elected by zone.

35 (4) If the election is at large, the length of the term of office of members of the first board  
 36 elected shall be determined in accordance with the number of votes each receives in the election.  
 37 Those receiving the highest number of votes may serve the four-year terms, subject to any term  
 38 designations made by the state board under subsection (3) of this section.

39 **SECTION 29.** ORS 341.290 is amended to read:

40 341.290. The board of education of a community college district shall be responsible for the  
 41 general supervision and control of any and all community colleges operated by the district. Con-  
 42 sistent with any applicable rules of the [*State Board of Education*] **State Board of Higher Educa-**  
 43 **tion**, the board may:

44 (1) Subject to ORS chapters 238 and 238A, employ administrative officers, professional personnel  
 45 and other employees, define their duties, terms and conditions of employment and prescribe com-

1    pensation therefor, pursuant to ORS 243.650 to 243.782.

2           (2) Enact rules for the government of the community college, including professional personnel  
3    and other employees thereof and students therein.

4           (3) Prescribe the educational program.

5           (4) Control use of and access to the grounds, buildings, books, equipment and other property of  
6    the district.

7           (5) Acquire, receive, hold, control, convey, sell, manage, operate, lease, lease-purchase, lend, in-  
8    vest, improve and develop any and all property of whatever nature given to or appropriated for the  
9    use, support or benefit of any activity under the control of the board, according to the terms and  
10   conditions of such gift or appropriation.

11          (6) Purchase real property upon a contractual basis when the period of time allowed for payment  
12   under the contract does not exceed 30 years.

13          (7) Fix standards of admission to the community college, prescribe and collect tuition for ad-  
14   mission to the community college, including fixing different tuition rates for students who reside in  
15   the district, students who do not reside in the district but are residents of the state and students  
16   who do not reside in the state.

17          (8) Prescribe and collect fees and expend funds so raised for special programs and services for  
18   the students and for programs for the cultural and physical development of the students.

19          (9) Provide and disseminate to the public information relating to the program, operation and fi-  
20   nances of the community college.

21          (10) Establish or contract for advisory and consultant services.

22          (11) Take, hold and dispose of mortgages on real and personal property acquired by way of gift  
23   or arising out of transactions entered into in accordance with the powers, duties and authority of  
24   the board and institute, maintain and participate in suits and actions and other judicial proceedings  
25   in the name of the district for the foreclosure of such mortgages.

26          (12) Maintain programs, services and facilities, and, in connection therewith, cooperate and en-  
27   ter into agreements with any person or public or private agency.

28          (13) Provide student services including health, guidance, counseling and placement services, and  
29   contract therefor.

30          (14) Join appropriate associations and pay any required dues therefor from resources of the  
31   district.

32          (15) Apply for federal funds and accept and enter into any contracts or agreements for the re-  
33   ceipt of such funds from the federal government or its agencies for educational purposes.

34          (16) Exercise any other power, duty or responsibility necessary to carry out the functions under  
35   this section or required by law.

36          (17) Prescribe rules for the use and access to public records of the district that are consistent  
37   with ORS 192.420, and education records of students under applicable state and federal law and  
38   rules of the [*State Board of Education*] **state board**. Whenever a student has attained 18 years of  
39   age or is attending an institution of post-secondary education, the permission or consent required  
40   of and the rights accorded to a parent of the student regarding education records shall thereafter  
41   be required of and accorded to only the student. However, faculty records relating to matters such  
42   as conduct, personal and academic evaluations, disciplinary actions, if any, and other personal  
43   matters shall not be made available to public inspection for any purpose except with the consent  
44   of the person who is the subject of the record or upon order of a court of competent jurisdiction.

45          (18) Enter into contracts for the receipt of cash or property, or both, and establish annuities

1 pursuant to ORS 731.704 to 731.724; and, commit, appropriate, authorize and budget for the payment  
 2 of or other disposition of general funds to pay, in whole or in part, sums due under an annuity  
 3 agreement, and to provide the necessary funding for reserves or other trust funds pursuant to ORS  
 4 731.716.

5 (19) Encourage gifts to the district by faithfully devoting the proceeds of such gifts to the dis-  
 6 trict purposes for which intended.

7 (20) Build, furnish, equip, repair, lease, purchase and raze facilities; and locate, buy and acquire  
 8 lands for all district purposes. Financing may be by any prudent method including but not limited  
 9 to loans, contract purchase or lease. Leases authorized by this section include lease-purchase  
 10 agreements whereunder the district may acquire ownership of the leased property at a nominal  
 11 price. Such financing agreements may be for a term of up to 30 years except for lease arrangements  
 12 which may be for a term of up to 50 years.

13 (21) Participate in an educational consortium with public and private institutions that offer up-  
 14 per division and graduate instruction. Community colleges engaged in such consortiums may expend  
 15 money, provide facilities and assign staff to assist those institutions offering upper division and  
 16 graduate instruction.

17 (22) Enter into contracts of insurance or medical and hospital service contracts or may operate  
 18 a self-insurance program as provided in ORS 341.312.

19 **SECTION 30.** ORS 341.315 is amended to read:

20 341.315. Any school district, education service district, institution of higher education, county,  
 21 municipality or private organization may contract with a community college district to provide ser-  
 22 vices of an educational nature that are subject to the approval of the [*State Board of Education*]  
 23 **State Board of Higher Education.**

24 **SECTION 31.** ORS 341.317 is amended to read:

25 341.317. (1) Reimbursement from the Community College Support Fund established in ORS  
 26 341.620 may be made available to community colleges that deliver educational services to inmates  
 27 confined to the state-operated correctional facilities and to locally operated correctional facilities.  
 28 Such reimbursement shall be distributed as directed in ORS 341.626 and the rules of the [*State Board*  
 29 *of Education*] **State Board of Higher Education.**

30 (2) The [*State Board of Education*] **state board** shall review and approve services to correctional  
 31 institutions at least once biennially.

32 (3) The enrollment limitation, as provided by ORS 341.022, does not apply to persons receiving  
 33 services under this section.

34 (4) Reimbursement from the Community College Support Fund established in ORS 341.620 may  
 35 not be made available to community colleges for delivering educational services to inmates confined  
 36 in federal prisons. Neither shall local property taxes be used to support such services. A host com-  
 37 munity college shall support such services through a contractual arrangement with the federal  
 38 government.

39 **SECTION 32.** ORS 341.405 is amended to read:

40 341.405. Upon approval of the [*State Board of Education*] **State Board of Higher Education**, a  
 41 community college may be established by a community college district in which all the requirements  
 42 for formation of the district are met and for which adequate building space, library and suitable  
 43 laboratory or shop space for the courses to be offered are available or will be available before  
 44 classes begin.

45 **SECTION 33.** ORS 341.420 is amended to read:

1 341.420. (1)(a) Subject to the requirements of subsection (2) of this section, the name of any  
 2 community college district or community college may be changed by resolution of the district board  
 3 of education. The district board shall submit the proposed name change to the [*State Board of Ed-*  
 4 *ucation*] **State Board of Higher Education** for its approval or disapproval. If the proposed name  
 5 change is approved by the state board, it shall be submitted to a public hearing in the district. If  
 6 the state board disapproves the proposed name change, the district board may rescind its resolution  
 7 or revise it to reflect a different name which must be submitted to the state board for its approval  
 8 or disapproval.

9 (b) If the proposed name is approved by the state board, notice of the hearing shall be given as  
 10 provided in ORS 341.357. The proposed change shall take effect 21 days after the final adjournment  
 11 of the public hearing unless a remonstrance is filed under subsection (2) of this section.

12 (2) If a remonstrance to the proposed name change is filed with the district board within 20 days  
 13 after the final adjournment of the public hearing under subsection (1) of this section, the district  
 14 board must submit the question of the proposed name change to the electors of the district unless  
 15 the board rescinds its resolution. The remonstrance must be signed by at least five percent or at  
 16 least 50, whichever is less, of the electors of the district. The proposed name change shall be sub-  
 17 mitted to the electors at the regular school election next following adoption of the resolution.

18 (3) If the majority of votes cast at the election favor the change, it shall take effect upon the  
 19 canvass and return of the vote. If the majority of votes cast oppose the change, it shall not take  
 20 effect.

21 **SECTION 34.** ORS 341.425 is amended to read:

22 341.425. (1) Before an educational program is commenced at any community college, the board  
 23 of education of a community college district shall apply to the [*State Board of Education*] **State**  
 24 **Board of Higher Education** for permission to commence the program. After the first year of the  
 25 program, course additions, deletions or changes must be presented to the [*State Board of*  
 26 *Education*] **state board** or a representative of the Department of Community Colleges and  
 27 Workforce Development authorized to act for the state board for approval.

28 (2) Until the community college becomes accredited by the Northwest Association of Schools  
 29 and Colleges or its successor, the community college shall contract with an accredited community  
 30 college for its instructional services, including curricula, to ensure its courses carry accreditation  
 31 and are acceptable for transfer.

32 (3) After reviewing the contractual agreement between the nonaccredited and the accredited  
 33 colleges and after suggesting any modifications in the proposed program of studies, the [*State Board*  
 34 *of Education*] **state board** shall approve or disapprove the application of a district.

35 **SECTION 35.** ORS 348.180 is amended to read:

36 348.180. As used in this section and ORS 348.183, 348.186, 348.230, 348.250 and 348.260:

37 (1) "Cost of education" includes but is not limited to, tuition, fees and living expenses.

38 (2) "Eligible post-secondary institution" means:

39 (a) A state institution [*under the direction of the State Board of Higher Education*] **of higher**  
 40 **education listed in ORS 352.002;**

41 (b) A community college operated under ORS chapter 341;

42 (c) The Oregon Health and Science University; or

43 (d) An Oregon-based, generally accredited, not-for-profit institution of higher education.

44 (3) "Financial need" means that the financial capacity of both the student and the student's  
 45 family to contribute to the cost of the student's education is not adequate to meet the total cost of

1 education for any term, according to a system of need analysis approved by the Oregon Student  
2 Assistance Commission.

3 (4) "Qualified student" means any resident student who plans to attend an eligible post-  
4 secondary institution and who:

5 (a) Has not achieved a baccalaureate or higher degree from any post-secondary institution;

6 (b) Is enrolled in an eligible program as defined by rule of the Oregon Student Assistance  
7 Commission; and

8 (c) Is making satisfactory academic progress as defined by rule of the Oregon Student Assistance  
9 Commission.

10 **SECTION 36.** ORS 341.465 is amended to read:

11 341.465. The board of a district operating a community college, upon approval of the [*State*  
12 *Board of Education*] **State Board of Higher Education**, may award certificates and associate de-  
13 grees indicating satisfactory completion of a course of study offered by the community college.

14 **SECTION 37.** ORS 341.527 is amended to read:

15 341.527. (1) Community colleges in Oregon shall admit students from other states at the same  
16 tuition rate assessed against Oregon residents who are residents of the community college district  
17 if:

18 (a) The state in which the student resides agrees to pay and pays its per capita state aid for  
19 comparable students in the state to the community college;

20 (b) The state in which the students reside agrees to permit and permits one-for-one full-time  
21 enrollment exchange arrangements that allow an equal number of Oregon residents to be admitted  
22 to community colleges or comparable institutions in the state at the same tuition rate assessed  
23 against residents of the state and community colleges or comparable institutions in the state in  
24 which the students reside agree to admit and admit approved Oregon residents without assessing  
25 nonresident tuition; or

26 (c) The board of the community college determines out-of-state residents are essential to pro-  
27 viding the critical mass to offer programs that would otherwise be unavailable to Oregon residents.

28 (2) The Department of Community Colleges and Workforce Development shall enter into agree-  
29 ments with such other states as are willing to agree to the provisions of this section to establish  
30 reimbursement procedures or one-for-one exchange procedures.

31 (3) In cases described in subsection (1)(a) of this section, the Department of Community Colleges  
32 and Workforce Development shall pay from funds available therefor to the state that agrees to pay  
33 and does pay its per capita state aid to eligible Oregon community colleges to the credit of the  
34 community college or comparable institution educating the Oregon resident an amount equal to the  
35 amount that would be available under ORS 341.626 if the Oregon resident were enrolled in a com-  
36 munity college in this state. From these same funds, the Department of Community Colleges and  
37 Workforce Development shall pay to the Oregon community colleges admitting approved one-for-one  
38 exchange students as provided by subsection (1)(b) of this section, from other states, an amount  
39 equal to the amount that would be available under ORS 341.626 as if the enrolled one-for-one stu-  
40 dents were Oregon residents. The Department of Community Colleges and Workforce Development  
41 shall not reimburse Oregon community colleges who admit students from other states under sub-  
42 section (1)(c) of this section.

43 (4) If a state that has entered into the agreement to pay the per capita state aid to eligible  
44 Oregon community colleges as described in subsections (1) and (2) of this section does not make any  
45 payment agreed to, the agreement terminates after the affected community college notifies the [*State*

1 *Board of Education*] **State Board of Higher Education** of the lack of payment. The termination is  
 2 effective 30 days after the state board notifies the appropriate agency of the other state that the  
 3 agreement is terminated if no payment is received by the end of the academic period for which tui-  
 4 tion is assessed and no payment is received at that time. The agreement may be reinstated by mu-  
 5 tual consent of the parties.

6 (5) The [*State Board of Education*] **state board** shall adopt rules governing attendance in com-  
 7 munity colleges or comparable institutions in other states for purposes of the reimbursement au-  
 8 thorized under subsections (1) and (2) of this section to [*assure*] **ensure** that Oregon residents shall  
 9 not be the object of such reimbursement if they can obtain the same education within the state  
 10 without undue hardship.

11 **SECTION 38.** ORS 341.547 is amended to read:

12 341.547. (1) Each community college board shall give an individual, written notice of reasonable  
 13 assurance of continued employment to all employees who are to perform services in the same or a  
 14 similar capacity during a subsequent academic year or term or in the period immediately following  
 15 a recess period. Such notice shall be given by May 30 of each year for employees employed as of  
 16 that date and as of the date of hire for employees employed subsequent to May 30.

17 (2) No liability shall accrue from failure to give the notice required by subsection (1) of this  
 18 section or from the timing or contents thereof on the part of the community college board. How-  
 19 ever, the [*State Board of Education*] **State Board of Higher Education** shall enforce the provisions  
 20 of subsection (1) of this section.

21 (3) Faculty members on annual or indefinite tenure, classified staff members on regular status  
 22 and management service employees are considered to have been given notice for the purposes of this  
 23 section.

24 **SECTION 39.** ORS 341.565 is amended to read:

25 341.565. (1) The [*State Board of Education*] **State Board of Higher Education** shall constitute  
 26 the boundary board for making any changes in the boundaries of community college districts. The  
 27 state board on its own motion or on petition from a petitioning territory may propose changes in  
 28 the boundaries of a community college district. The state board must find that the proposed change  
 29 will have no substantially adverse effect upon the ability of the affected districts to provide and  
 30 continue their programs and is not made solely for tax advantages to property owners in the district  
 31 or area affected by the proposed change. The state board may submit the question of a boundary  
 32 change to a vote of the electors of the territories affected by the boundary change. The election  
 33 must be held on the same day in both of the affected territories.

34 (2) A petition shall be in a form prescribed by the state board and must contain such information  
 35 as the state board may require. The petition shall contain a minimum number of signatures as fixed  
 36 by the state board.

37 (3) Before any order changing boundaries of an existing district is entered, the state board shall  
 38 set dates for a public hearing in the area to be included in the district or excluded from the district  
 39 by the proposed boundary change and in the case of annexation of new territory in the principal  
 40 town of the existing district and shall give notice in the manner required in ORS 341.357. At the  
 41 time set in the notice, the state board or its authorized representative shall conduct a public hearing  
 42 on the motion or petition and may adjourn the hearing from time to time.

43 (4) If, upon final hearing, the state board approves the motion or petition or affirms the vote of  
 44 the electors of the affected territories, the state board shall make an order describing the revised  
 45 boundaries of the district. The order becomes final when the order is approved by the Legislative

1 Assembly. If the order is not approved, the state board may revise the order and resubmit the order  
 2 to the Legislative Assembly but not sooner than 60 days after the action of disapproval was taken.

3 (5) Any division of assets and liabilities required by a change in the boundaries of a district  
 4 shall be made pursuant to ORS 341.573.

5 (6) When the boundaries of a district are changed, if the final order of the state board or an  
 6 election held under ORS 341.569:

7 (a) Occurs between July 1 and March 31, inclusive, the change takes effect on the June 30 fol-  
 8 lowing the final order or election favoring the change.

9 (b) Occurs between April 1 and June 30, inclusive, the change takes effect on the June 30 of the  
 10 following year.

11 (7) For purposes of ad valorem taxation, a boundary change must be filed in final approved form  
 12 with the county assessor and the Department of Revenue as provided in ORS 308.225.

13 **SECTION 40.** ORS 341.569 is amended to read:

14 341.569. (1) The [*State Board of Education*] **State Board of Higher Education** shall submit the  
 15 question of a proposed boundary change to a vote if:

16 (a) The state board enters the order to revise the boundaries of a community college district;

17 (b) A remonstrance is filed with the state board within 20 days after the date on which the  
 18 hearing under ORS 341.565 is adjourned finally;

19 (c) The remonstrance is signed by at least five percent of the electors or at least 500 of the  
 20 electors, whichever is less, in:

21 (A) An area to be included in the district or excluded from the district by the proposed boundary  
 22 change; or

23 (B) The existing community college district; and

24 (d) The area to be included in the district is not surrounded by the territory of a single com-  
 25 munity college district.

26 (2) When necessary under subsection (1) of this section, the question shall be submitted to the  
 27 electors of the area or district filing a remonstrance or in both if remonstrances meeting the re-  
 28 quirements of subsection (1) of this section are filed from both.

29 (3) If the proposed boundary change is defeated, the same or a substantially similar change may  
 30 not be considered until at least 12 months have elapsed from the date of the election at which the  
 31 change was defeated. If the vote is favorable in the area or district from which a remonstrance was  
 32 filed, the state board shall declare the change effective on the date determined under ORS 341.565.

33 **SECTION 41.** ORS 341.573 is amended to read:

34 341.573. (1) When changes in district boundaries are made by the detachment of territory or an  
 35 annexation of territory and another community college district is affected, the boards of the districts  
 36 shall make an equitable division of the then existing assets and liabilities between the districts af-  
 37 fected by such change and provide the manner of consummating the division.

38 (2) In case of failure to agree within 20 days from the time of such change, the matter shall be  
 39 decided by a board of arbitrators. The board of arbitrators shall consist of one member appointed  
 40 by each of the boards of the affected districts and an additional member appointed by the other  
 41 appointees.

42 (3) In the event any such board fails to appoint an arbitrator within 30 days, the [*State Board*  
 43 *of Education*] **State Board of Higher Education** shall appoint such arbitrator. In the event the  
 44 arbitrators selected fail to appoint the additional arbitrator within 30 days after the appointment  
 45 of the arbitrator last appointed, the [*State Board of Education*] **state board** shall notify the judge

1 senior in service of the circuit court of the principal county. Within 10 days after receiving such  
2 notice, the judge shall appoint one additional arbitrator.

3 (4) Each member of the board of arbitrators shall be entitled to the sum of \$100 per day for each  
4 day's service, and necessary expenses, while serving in the official capacity of the member. Ex-  
5 penses thus incurred shall be equally apportioned among the districts concerned.

6 (5) A party to an arbitration under this section may seek confirmation, vacation, modification  
7 or correction of the arbitrator's decision as provided in ORS 36.700, 36.705 and 36.710. A court may  
8 vacate an award only if there is a basis to vacate the award described in ORS 36.705 (1)(a) to (d).  
9 The court may modify or correct an award only for the grounds given in ORS 36.710.

10 (6) Assets include all property and moneys belonging to the district at the time of division. Li-  
11 abilities include all debts for which the respective districts in their corporate capacities are liable  
12 at the time of division. In determining the assets, property shall be estimated at its fair value. The  
13 assets and liabilities shall be divided between the districts in proportion to the last assessed value  
14 of the real and personal property. The district retaining the real property shall pay the other dis-  
15 tricts concerned such sums as are determined in accordance with the provisions of this section. All  
16 funds to be apportioned during the current fiscal year, after such division, shall be made in pro-  
17 portion to the number of persons in each district according to the latest federal census.

18 **SECTION 42.** ORS 341.577 is amended to read:

19 341.577. (1) Notwithstanding any other provision of this chapter, when the new territory annexed  
20 to an existing community college district is greater in population than the original territory, based  
21 upon the latest federal census, the provisions of this section shall govern the community college  
22 district for a period of not less than 10 years after the effective date of the boundary change.

23 (2) Program access and facilities for students shall be maintained in the original territory for a  
24 period of not less than 20 years while programs and facilities for students are developed in the new  
25 territory.

26 (3)(a) After the approval by the electors of both the original territory and the new territory of  
27 the boundary change, the mode of election of board members shall be changed as provided in this  
28 subsection. The term of office of a board member shall be four years. Electors of each of the seven  
29 zones shall elect a board member.

30 (b) No later than the 90th day after the boundary change election under ORS 341.579 (1), five  
31 zones for the new territory shall be established by the [*State Board of Education*] **State Board of**  
32 **Higher Education**.

33 (c) No later than June 30, two zones for the original territory shall be established by the [*State*  
34 *Board of Education*] **state board** before the election of the first director to either zone as provided  
35 in this subsection.

36 (d) Zones shall be established with the boundaries exclusively within the original territory or  
37 exclusively within the new territory, and with the zones as nearly equal in population as is feasible  
38 according to the latest federal census.

39 (e) An elector may sign a petition of nomination and may vote only for a candidate from the  
40 zone in which the elector resides.

41 (f) The four-year terms of office pertaining to the five numbered zones of the original territory  
42 shall continue until the regularly scheduled June 30 termination date of each expires. A board  
43 member shall be nominated and elected in the same numbered zone in the new territory at the  
44 regular district election immediately preceding the June 30 date, and the director from that zone  
45 shall take office on the July 1 following the date of election.

1 (g) Board members nominated and elected to office by zone in the original territory, and any  
 2 person elected or appointed to fill any vacancy in such office, shall continue to hold office until the  
 3 expiration of the board member's term.

4 (h)(A) The two at-large board positions in the original territory shall become the two zoned po-  
 5 sitions of the original territory after that June 30 on which the last zone of the original territory  
 6 no longer is in effect.

7 (B) At that time, the directors in office in the two at-large board positions in the original ter-  
 8 ritory shall each be assigned that zone in which each resides, if both reside in separate zones.

9 (C) If the two directors reside in the same zone, then that director elected by the greater num-  
 10 ber of votes between the two directors at large shall hold the board position for the territory of the  
 11 zone in which the director resided at the date of election, and the other director shall hold the board  
 12 position of the other zone.

13 (D) Such board members shall continue in office until their respective terms of at-large election  
 14 expire, provided any vacancy occurring in a board member's office before the expiration of such  
 15 term shall be filled until expiration by appointment by the board of a resident of the board member's  
 16 zone.

17 (4) The board shall appoint an advisory committee of seven members, including three from the  
 18 original territory and three from the new territory. The board shall appoint a seventh, at-large  
 19 member from a list of persons nominated by the advisory committee. The at-large member shall be  
 20 the chairperson. The advisory committee members shall be appointed, and may be reappointed, for  
 21 terms of three years, and the terms shall be staggered so that approximately one-third of the terms  
 22 of the members end each year. The board shall give deliberative consideration to all recommen-  
 23 dations of the advisory committee concerning policy related to district organization, educational  
 24 services and facilities in regard to both the original territory and the new territory.

25 (5) Subject to ORS 294.336, members of the advisory committee shall be appointed to the com-  
 26 munity college district budget committee. The community college district budget committee shall  
 27 review and recommend budgets established and delineated by territory based on revenues and re-  
 28 sources available.

29 (6) The chief administrative officer of the district shall maintain the administrative office of the  
 30 district in the original territory.

31 (7) Collective bargaining shall be maintained uniformly across the original territory and new  
 32 territory.

33 (8) After receiving any recommendation of the advisory committee, the board may continue one  
 34 or more of the provisions of subsections (1) and (3) to (7) of this section in effect for an indefinite  
 35 period after the expiration of the 10-year period referred to in subsection (1) of this section.

36 (9) The original territory shall remain liable for the existing debt of the community college dis-  
 37 trict payable from ad valorem property taxes levied specifically for the payment of such indebt-  
 38 edness.

39 **SECTION 43.** ORS 341.579 is amended to read:

40 341.579. (1) The [*State Board of Education*] **State Board of Higher Education** shall submit the  
 41 question of any boundary change pertaining to a community college district subject to ORS 341.577  
 42 to a vote of the electors held the same day in both the original territory and the new territory.

43 (2) If the proposed boundary change is defeated in either territory, the same or a substantially  
 44 similar change shall not be considered until at least 12 months have elapsed from the date of the  
 45 election at which the proposed change was defeated. If the vote is favorable in both the original

1 territory and the new territory, and subject to determination by the state board that there is a  
 2 legislative appropriation to the Community College Support Fund established in ORS 341.620 to  
 3 support the new district resulting from the boundary change at a level commensurate with support  
 4 for other community college districts, then the state board shall declare the change effective on the  
 5 date determined under ORS 341.565. Implementation of the state board's order shall take place only  
 6 if the funds needed to accommodate the impact of annexation on other local education districts are  
 7 appropriated specifically for that purpose by the Legislative Assembly or allocated by the Emer-  
 8 gency Board.

9 **SECTION 44.** ORS 341.620 is amended to read:

10 341.620. There is established a Community College Support Fund in the General Fund. **The**  
 11 **moneys in the Community College Support Fund are continuously appropriated to the De-**  
 12 **partment of Community Colleges and Workforce Development for distribution to community**  
 13 **college districts and community college service districts under ORS 341.626.**

14 **SECTION 45.** ORS 341.626 is amended to read:

15 341.626. (1) Subject to rules adopted by the [*State Board of Education*] **State Board of Higher**  
 16 **Education** and to ORS 291.232 to 291.260, the Commissioner for Community College Services shall  
 17 distribute state aid to each community college district and community college service district.

18 (2) The rules adopted by the [*State Board of Education*] **state board** shall provide:

19 (a) No state aid for hobby and recreation classes;

20 (b) Procedures for proper and accurate record keeping;

21 (c) Procedures that will [*insure*] **ensure** reasonable year to year stability in the delivery of ap-  
 22 propriated moneys to the colleges; and

23 (d) Procedures to [*insure*] **ensure** that the full state appropriation is delivered to the colleges.

24 (3) Upon compliance with the rules adopted by the [*State Board of Education*] **state board**, the  
 25 commissioner shall, as soon as practicable following the receipt of required reports from the dis-  
 26 tricts, prepare, certify and transmit to the Oregon Department of Administrative Services the names  
 27 and the amounts due each district. The Oregon Department of Administrative Services shall audit  
 28 the amounts certified by the commissioner and draw its warrants on the State Treasury payable out  
 29 of the [*General Fund*] **Community College Support Fund** to the districts.

30 **SECTION 46.** ORS 341.635 is amended to read:

31 341.635. (1) In determining the amount of apportionment to the community college from the  
 32 [*General Fund*] **Community College Support Fund** under ORS 341.626, tuition and fees allowed for  
 33 scholarships authorized by ORS 341.485 shall be considered as paid by the student.

34 (2) The district shall include the high school student attending the community college in deter-  
 35 mining the number of equivalent full-time students in classes for purposes of ORS 341.626 and other  
 36 laws governing the distribution of state and federal funds to such colleges.

37 **SECTION 47.** ORS 341.933 is amended to read:

38 341.933. The [*State Board of Education*] **State Board of Higher Education** shall adopt by rule  
 39 standards governing the distribution of state funds to community college districts for capital con-  
 40 struction projects. The standards shall include, but need not be limited to, the following provisions:

41 (1) [*No*] State funds [*shall*] **may not** be used for the construction of student or faculty housing,  
 42 facilities for spectators at athletic events, recreational facilities, student health facilities or nonin-  
 43 structional portions of student centers; and

44 (2) State funds shall be matched by substantial contributions from nonstate sources, which may  
 45 include tuition, property taxes, bond issues, gifts and grants.

1        **SECTION 48.** ORS 341.937 is amended to read:

2        341.937. In preparing budget requests for each biennium beginning on and after July 1, 1993,  
 3 after consultation with the community colleges and their respective representatives of the disabled  
 4 community at the colleges, the [*State Board of Education*] **State Board of Higher Education** shall  
 5 include amounts for capital improvements that will be applied to the substantial reduction and  
 6 eventual elimination of barriers to access by disabled persons.

7        **SECTION 49.** ORS 348.270 is amended to read:

8        348.270. (1) In addition to any other scholarships provided by law, the Oregon Student Assist-  
 9 ance Commission shall award scholarships in any state institution [*under the State Board of Higher*  
 10 *Education*] **of higher education listed in ORS 352.002**, in the Oregon Health and Science Univer-  
 11 sity, in any community college operated under ORS chapter 341, or in any Oregon-based regionally  
 12 accredited independent institution, to any student applying for enrollment or who is enrolled therein,  
 13 who is:

14        (a) The natural, adopted or stepchild of any public safety officer who, in line of duty, was killed  
 15 or so disabled, as determined by the Oregon Student Assistance Commission, that the income of the  
 16 disabled public safety officer is less than that earned by public safety officers performing duties  
 17 comparable to those performed at the highest rank or grade attained by the disabled parent; or

18        (b) A former foster child who enrolls in an institution of higher education as an undergraduate  
 19 student not later than three years from the date the student was removed from the care of the De-  
 20 partment of Human Services, the date the student graduated from high school or the date the stu-  
 21 dent received the equivalent of a high school diploma, whichever date is earliest.

22        (2) Scholarships awarded under this section to students who are dependents of public safety of-  
 23 ficers or who are former foster children shall equal the amount of tuition and all fees levied by the  
 24 institution against the recipient of the scholarship. However, scholarships awarded to students who  
 25 attend independent institutions shall not exceed the amount of tuition and all fees levied by the  
 26 University of Oregon.

27        (3) If the student who is the dependent of a deceased public safety officer continues to remain  
 28 enrolled in a state institution of higher education or a community college or an independent insti-  
 29 tution within the State of Oregon, the student shall be entitled to renewal of the scholarship until  
 30 the student has received the equivalent of four years of undergraduate education and four years of  
 31 post-graduate education.

32        (4) If the student who is the dependent of a disabled public safety officer or who is a former  
 33 foster child continues to remain enrolled in a state institution of higher education or a community  
 34 college or an independent institution within the State of Oregon, the student shall be entitled to  
 35 renewal of the scholarship until the student has received the equivalent of four years of under-  
 36 graduate education.

37        (5) The Oregon Student Assistance Commission may require proof of the student's relationship  
 38 to a deceased or disabled public safety officer described in subsection (1) of this section or proof that  
 39 the student is a former foster child.

40        (6) As used in this section:

41        (a) "Former foster child" means an individual who, for a total of 12 or more months while be-  
 42 tween the ages of 16 and 21, was a ward of the court pursuant to ORS 419B.100 (1)(b) to (e) and in  
 43 the legal custody of the Department of Human Services for out-of-home placement.

44        (b) "Public safety officer" means:

45        (A) A firefighter or police officer as those terms are defined in ORS 237.610.

1 (B) A member of the Oregon State Police.

2 **SECTION 50.** ORS 294.356 is amended to read:

3 294.356. (1) Each school district[,] **and** each education service district [*and each community col-*  
 4 *lege district*] shall prepare its estimates of expenditures required by ORS 294.352 in accordance with  
 5 the classification of revenue and expenditure accounts prescribed by rules of the State Board of  
 6 Education with the approval of the Department of Revenue. **Each community college district shall**  
 7 **prepare its estimates of expenditures required by ORS 294.352 in accordance with the classi-**  
 8 **fication of revenue and expenditure accounts prescribed by rules of the State Board of**  
 9 **Higher Education with the approval of the Department of Revenue.** The Department of Re-  
 10 venue shall be responsible for determining compliance.

11 (2) The term “organizational unit” shall not apply to hospitals, school districts, education ser-  
 12 vice districts and community colleges in preparing estimates of expenditures under ORS 294.352 or  
 13 making appropriations under ORS 294.435. The term “organizational unit” shall not apply to hospi-  
 14 tals in preparing the budget summary required by ORS 294.416.

15 (3) Notwithstanding ORS 294.352 (5), each municipal corporation which operates a public utility  
 16 or hospital shall prepare its estimates for such operations in accordance with the generally accepted  
 17 system of accounts for such operation or in accordance with the general system of accounts con-  
 18 tained in ORS 294.311 to 294.520.

19 **SECTION 51.** ORS 329.950 is amended to read:

20 329.950. (1) Pursuant to rules adopted by the [*State Board of Education*] **State Board of Higher**  
 21 **Education**, the Department of Community Colleges and Workforce Development shall provide for a  
 22 statewide literacy “hotline” for literacy program referrals and for the statewide coordination of lit-  
 23 eracy programs pursuant to ORS 344.760 and 344.765.

24 (2) Gifts and grants for the support of the literacy hotline shall be deposited with and adminis-  
 25 tered by a nonprofit organization selected by the Commissioner for Community College Services. The  
 26 nonprofit organization that is selected must show a history of similar experience with fiduciary re-  
 27 sponsibilities.

28 (3) The Department of Community Colleges and Workforce Development may contract with any  
 29 public body or nonprofit organization to accomplish the purposes of this section.

30 **SECTION 52.** ORS 344.070 is amended to read:

31 344.070. (1) The Oregon Department of Administrative Services may draw warrants upon any  
 32 state fund to which federal funds for training or education have been credited, in payment of  
 33 vouchers approved by the Superintendent of Public Instruction [*or the Commissioner for Community*  
 34 *College Services*] pursuant to rules of the State Board of Education, in favor of school districts[,]  
 35 **and** education service districts [*and community college districts*], for such sums, not exceeding  
 36 \$100,000 for a single district in the aggregate, as the State Board **of Education**, by rule, shall de-  
 37 termine.

38 **(2) The Oregon Department of Administrative Services may draw warrants upon any**  
 39 **state fund to which federal funds for training or education have been credited, in payment**  
 40 **of vouchers approved by the Commissioner for Community College Services pursuant to rules**  
 41 **of the State Board of Higher Education, in favor of community college districts, for such**  
 42 **sums, not exceeding \$100,000 for a single district in the aggregate, as the State Board of**  
 43 **Higher Education, by rule, shall determine.**

44 (3) The warrants, upon delivery thereof to the districts, shall constitute advances from state  
 45 funds to enable the districts more readily to effectuate the purposes set forth in any federal law or

1 regulation pertaining to professional technical education or other education or training sponsored  
2 by the federal government.

3 [(2)] (4) The districts to which moneys are advanced shall be responsible for the full repayment  
4 to the state of all sums advanced. The advances are not within any limitation upon indebtedness  
5 prescribed by law for districts. The moneys advanced to districts shall not exceed in the aggregate  
6 the moneys to the credit of the state fund from which they are paid, and shall constitute advances  
7 to the recipient district in anticipation of verified vouchers to be supplied therefor. The advances  
8 are to be used as revolving funds for the payment of the costs of professional technical training  
9 programs. The advances shall be made only in those cases in which the federal government defrays  
10 all or part of the cost of such programs.

11 **SECTION 53.** ORS 344.080 is amended to read:

12 344.080. (1) All reimbursement vouchers for claims paid from the revolving funds mentioned in  
13 ORS 344.070 shall be approved by the Superintendent of Public Instruction **pursuant to rules of**  
14 **the State Board of Education** or the Commissioner for Community College Services pursuant to  
15 rules of the [*State Board of Education*] **State Board of Higher Education**. When vouchers are so  
16 approved, warrants covering the same shall be drawn by the Oregon Department of Administrative  
17 Services, payable from the appropriate fund, and be used to reimburse the revolving funds.

18 (2) The districts receiving such advances shall maintain their accounts and records so as to  
19 disclose at all times the true status of the unpaid vouchers issued for the reimbursement of the  
20 funds, the district warrants drawn against the funds advanced and the balances to the credit thereof.

21 (3) The revolving funds and accounts shall be subject to examination and audit by the state in  
22 the manner provided by law for other state funds and accounts. The State Board of Education **or**  
23 **the State Board of Higher Education** may require an audit of the revolving accounts and shall  
24 take proper precautions as to the safety of, and accountability for, all funds advanced.

25 (4) The State Board of Education **or the State Board of Higher Education** may require the  
26 filing with [*it*] **the board** of a bond of a corporate surety duly licensed to transact business in this  
27 state to [*insure*] **ensure** the proper handling of and responsibility for any funds advanced. The bond  
28 shall be cumulative and supplemental to fidelity insurance coverage already held by the district  
29 concerned. The state may have recourse to any and all fidelity bonds of clerks or other financial  
30 officers of the district to protect such advances.

31 **SECTION 54.** ORS 344.090 is amended to read:

32 344.090. When it appears to the Superintendent of Public Instruction or the Commissioner for  
33 Community College Services that the training and educational programs for which funds are ad-  
34 vanced under ORS 344.070 have been completed, or that the need for such advances or revolving  
35 funds no longer exists, or that the sums advanced are not being properly handled or accounted for,  
36 the superintendent or commissioner may require that all or part of the amounts advanced to any  
37 district shall be returned, with any interest earned, to the state funds or accounts from which the  
38 amounts originally were withdrawn. Upon receipt of notification from the superintendent or com-  
39 missioner that funds advanced are to be returned, the district concerned shall immediately repay the  
40 same to the State Treasurer, for credit to the proper fund or account. To the extent that funds ad-  
41 vanced are so repaid, security or protection theretofore required by the State Board of Education  
42 **or the State Board of Higher Education** under ORS 344.080 (4) to [*insure*] **ensure** the safety of  
43 such funds may be released.

44 **SECTION 55.** ORS 344.120 is amended to read:

45 344.120. All lawfully incurred claims duly approved pursuant to rules of the State Board of Ed-

1 ucation **or the State Board of Higher Education**, including all claims to be paid from the moneys  
 2 received by the state from the federal government for professional technical education purposes and  
 3 for which the State Treasurer is custodian shall be paid as provided in ORS 293.295 to 293.462. The  
 4 Oregon Department of Administrative Services shall draw warrants on the State Treasurer in pay-  
 5 ment thereof out of the proper appropriations or funds.

6 **SECTION 56.** ORS 344.259 is amended to read:

7 344.259. (1) The State Board of Education shall coordinate continuing education in lower divi-  
 8 sion, developmental, adult self-improvement, professional and technical education for agencies under  
 9 its regulatory authority. The State Board of Higher Education shall coordinate continuing education  
 10 in **community colleges and** upper division and graduate education for institutions **of higher edu-**  
 11 **cation** under its jurisdiction.

12 (2) When significantly adverse impact is alleged by one or more of the agencies listed in this  
 13 subsection, the affected parties jointly shall provide for written agreements. These agreements shall  
 14 allocate responsibility for planning and providing continuing education or off-campus instruction in  
 15 specific areas or by specific types. The agencies are:

16 (a) The State Board of Education.

17 (b) The State Board of Higher Education.

18 (c) Community college districts.

19 (d) Independent colleges.

20 (e) Proprietary schools.

21 (3) In the event the affected parties fail to reach a written agreement within 120 days following  
 22 receipt of written notice of the allegation, either party may request the Education and Workforce  
 23 Policy Advisor to review and to recommend resolution.

24 (4) Nothing in this section prohibits the offering of upper division or graduate programs within  
 25 30 miles of the campus of the Department of Higher Education institution offering the program, or  
 26 the offering of lower division programs within 30 miles of the campus offering the program in areas  
 27 outside a community college district. Such programs are entitled to the same college credit and fi-  
 28 nancial support as programs offered on the campus of the institution.

29 **SECTION 57.** Section 1, chapter 653, Oregon Laws 1997, is amended to read:

30 **Sec. 1.** The State Board of Higher Education shall:

31 (1) Continue development of accountability and performance measures with indicators in broad  
 32 goal areas, including but not limited to:

33 (a) Enhancing existing quality;

34 (b) Expanding access;

35 (c) Maintaining reasonable cost-effectiveness; and

36 (d) Ensuring employability.

37 (2) Continue development of a proficiency-based admission standards system that aligns with  
 38 school reform requirements for kindergarten through grade 12 under ORS chapter 329 in order to  
 39 improve student performance and better articulate expectations of student learning among the edu-  
 40 cational sectors.

41 (3) Continue experimentation with and implementation of various accelerated baccalaureate de-  
 42 gree models at state institutions of higher education in applicable programs. The models may include  
 43 but need not be limited to early entry and post-secondary options and models that are jointly de-  
 44 veloped with the State Board of Education.

45 (4) Continue development of strategies to provide the broadest possible access to educational

1 services for both on-campus and off-campus learners by using technology as well as traditional  
 2 options.

3 (5) Continue to work with businesses, industries and agencies to offer increased opportunities  
 4 for students to participate in internships, practica and service learning experiences. The **State**  
 5 **Board of Higher Education** shall continue to explore faculty internship opportunities with busi-  
 6 nesses, industries and agencies.

7 [(6) *Continue to work with the State Board of Education to develop policies and procedures that*  
 8 *ensure maximum transfer of academic credits between community colleges and state institutions of*  
 9 *higher education.*]

10 **SECTION 58.** ORS 351.653 is amended to read:

11 351.653. (1) In addition to any interstate agreements entered into under ORS 351.647, the Gov-  
 12 ernor shall encourage interstate agreements with Washington, Idaho and California. Such agree-  
 13 ments shall be in accordance with ORS 190.410 to 190.440 and shall:

14 (a) Provide for full-time equivalent reimbursement to this state for any students from another  
 15 state who enroll in an Oregon public post-secondary institution pursuant to the agreement;

16 (b) Provide that only students who reside in counties that share a common border with this state  
 17 may participate in any program developed pursuant to such an agreement; and

18 (c) Provide that the county government or other similar county-wide public organization of any  
 19 county involved in the agreement shall provide or arrange to provide a portion of the costs of at-  
 20 tendance for participating students.

21 (2) Any public post-secondary institution entering into an interstate agreement under this sec-  
 22 tion shall send a copy of the agreement to the Governor and the [*State Board of Education*] **State**  
 23 **Board of Higher Education**.

24 (3) The provisions of this section shall not apply to interstate agreements entered into pursuant  
 25 to ORS 351.647.

26 **SECTION 59.** ORS 433.283 is amended to read:

27 433.283. (1) The Department of Human Services may require each community college to require  
 28 that students involved in clinical experiences in allied health programs, practicum experiences in  
 29 education and child care programs and membership on intercollegiate sports teams have current  
 30 immunizations for measles prior to each student's participation. The requirement shall apply only  
 31 to those students born on or after January 1, 1957.

32 (2) The [*State Board of Education*] **State Board of Higher Education** by rule shall define clin-  
 33 ical experiences in allied health programs, practicum experiences in education and child care pro-  
 34 grams and membership on intercollegiate sports teams at the community colleges. The Department  
 35 of Human Services by rule shall establish immunization schedules and may further limit the students  
 36 and programs to which the requirement applies. Each community college shall develop procedures  
 37 to implement and maintain this requirement.

38 (3) The Department of Human Services may conduct validation surveys to insure compliance  
 39 with this section. Community colleges shall be required to keep immunization records only while the  
 40 student is involved in the program.

41 **SECTION 60.** ORS 656.046 is amended to read:

42 656.046. (1) All persons registered at a college and participating as unpaid trainees in a work  
 43 experience program who are subject to the direction of noncollege-employed supervisors, and those  
 44 trainees participating in college directed professional education projects, are considered workers of  
 45 the college subject to this chapter for purposes of this section. However, trainees who are covered

1 by the Federal Employees Compensation Act shall not be subject to the provisions of this section.

2 (2) A college conducting a work experience program or college directed professional education  
 3 project shall submit a written statement to the insurer, or in the case of self-insurers, to the Di-  
 4 rector of the Department of Consumer and Business Services, that includes a description of the work  
 5 to be performed by such persons and an estimate of the total number of persons enrolled in the  
 6 program or project.

7 (3) Persons covered under this section are entitled to the benefits of this chapter. However, such  
 8 persons are not entitled to benefits under ORS 656.210 or 656.212. They are entitled to such benefits  
 9 if injured as provided in ORS 656.156 and 656.202 while performing any duties arising out of and in  
 10 the course of their participation in the work experience program or college directed professional  
 11 education project, provided the duties being performed are among those:

12 (a) Described on the application of the college; and

13 (b) Required of similar full-time paid employees.

14 (4) The filing of claims for benefits under this section is the exclusive remedy of a trainee or a  
 15 beneficiary of the trainee for injuries compensable under this chapter against the state, its political  
 16 subdivisions, the college district board, members, officers and employees of the board or any em-  
 17 ployer, regardless of negligence.

18 (5) A college may elect to make trainees subject to this chapter for college directed professional  
 19 education projects not enumerated in subsection (8) of this section or for work experience programs  
 20 under the direction of college-employed supervisors by filing a written request with the insurer of  
 21 the college, or in the case of self-insured colleges, with the director. Coverage under such election  
 22 shall become effective no sooner than the date of receipt by the insurer. The coverage request shall  
 23 include a description of the work to be performed and an estimate of the number of participating  
 24 trainees. The insurer or director shall accept a request that meets the criteria of this section.

25 (6) The provisions of this section shall be inapplicable to any trainee who has earned wages for  
 26 such employment.

27 (7) As used in this section, "college" means any community college district or community college  
 28 service district as defined in ORS chapter 341.

29 (8) As used in this section, "college directed professional education project" means an assigned  
 30 on-campus or off-campus project that is a component of a program approved by the college board  
 31 or the operating procedures of the [*State Board of Education*] **State Board of Higher Education**  
 32 and involves work that provides practical experience beyond the initial instruction and demon-  
 33 stration phases, performed outside of the college classroom or laboratory environment and requiring  
 34 substantial hands-on participation by trainees. Such projects are further limited to logging,  
 35 silvicultural thinning, slash burning, fire fighting, stream enhancement, woodcutting, reforestation,  
 36 tree surgery, construction, printing and manufacturing involving formed metals.

37 **SECTION 61.** ORS 659.855 is amended to read:

38 659.855. (1) Any public elementary or secondary school determined by the Superintendent of  
 39 Public Instruction [*or any community college determined by the Commissioner for Community College*  
 40 *Services*] to be in noncompliance with provisions of ORS 659.850 and this section shall be subject to  
 41 appropriate sanctions, which may include withholding of all or part of state funding, as established  
 42 by rule of the State Board of Education.

43 (2) **Any community college determined by the Commissioner for Community College**  
 44 **Services to be in noncompliance with provisions of ORS 659.850 and this section shall be**  
 45 **subject to appropriate sanctions, which may include withholding of all or part of state fund-**

1 **ing, as established by rule of the State Board of Higher Education.**

2 [(2)] (3) Any public institution of higher education determined by the Chancellor of the Oregon  
3 University System to be in noncompliance with provisions of ORS 659.850 and this section shall be  
4 subject to appropriate sanctions, which may include withholding of all or part of state funding, as  
5 established by rule of the State Board of Higher Education.

6 [(3)] (4) Any public charter school determined by the sponsor of the school or the Superinten-  
7 dent of Public Instruction to be in noncompliance with the provisions of ORS 659.850 and this sec-  
8 tion shall be subject to appropriate sanctions, which may include the withholding of all or part of  
9 state funding by the sponsor or superintendent, as established by rule of the State Board of Educa-  
10 tion.

11 **SECTION 62.** ORS 660.157 is amended to read:

12 660.157. (1) Each state joint committee, with the prior approval of the State Apprenticeship and  
13 Training Council, shall prescribe a standard course of study, developed from a trade analysis, for  
14 the trade, craft or industrial occupation over which the committee exercises jurisdiction. Each such  
15 course of study shall include instructional objectives and an outline of course content for related  
16 instruction and manipulative instruction in the classroom. The prescribed course shall also provide  
17 for evaluation procedures and instruments for measuring performance. For all programs in  
18 apprenticeable occupations a minimum of 144 hours of related instruction per year is recommended.

19 (2) Except as provided in subsection (3) of this section, no course of study for the instruction  
20 of apprentices or trainees that has not been prescribed pursuant to subsection (1) of this section  
21 may be implemented under this chapter.

22 (3) Notwithstanding subsections (1) and (2) of this section, any course of study for the instruc-  
23 tion of apprentices or trainees may be implemented under this chapter where such course of study:

24 (a) Involves instruction in any trades or crafts where the industry will provide the facilities for  
25 training;

26 (b) Prepares apprentices and trainees in any trades or crafts;

27 (c) Requires expert instructors to meet the level of skill and training required by the industry;

28 (d) Is substantially equivalent to the standard course prescribed under subsection (1) of this  
29 section; and

30 (e) Is supervised by a local joint committee or by a joint industry trust fund committee.

31 (4) Where a course of study meets the requirements of subsection (3) of this section, such course  
32 shall be approved:

33 (a) By the state joint committee; and

34 (b) By the [*State Board of Education*] **State Board of Higher Education** for apprenticeship  
35 training credit and toward community college associate degrees.

36 (5) Operation of a course of study under subsection (3) of this section shall be the responsibility  
37 of the recognized local apprenticeship committee or local industry trust fund or recognized local  
38 employee organization. Such local committee, trust or organization may prescribe criteria for en-  
39 rollment into the course of study.

40 **SECTION 63.** ORS 660.162 is amended to read:

41 660.162. The [*State Board of Education*] **State Board of Higher Education**, in cooperation with  
42 the State Apprenticeship and Training Council and the appropriate state joint committee, by rule  
43 shall adopt policies, standards and programs to carry out the provisions of ORS 660.002. Such poli-  
44 cies, standards or programs may involve any of the following matters:

45 (1) Development of courses of study for apprentices and trainees in the trade, craft or industrial

1 occupation over which the committee exercises jurisdiction.

2 (2) Operation of related instruction classes by district school boards and in courses implemented  
3 under ORS 660.157 (3).

4 (3) Development of uniform standards covering occupational qualifications and teacher training  
5 requirements for instructors.

6 (4) Preservice and inservice training for instructors.

7 (5) Evaluation procedures for determining credit for apprenticeship training toward community  
8 college associate degrees.

9 (6) Defining procedures for granting credit for work experience to instructors, skilled craftsmen  
10 or journeymen toward the requirements of a community college associate degree.

11 **SECTION 64.** ORS 660.167 is amended to read:

12 660.167. The State Apprenticeship and Training Council, in cooperation with the [*State Board*  
13 *of Education*] **State Board of Higher Education**, shall adopt policies regarding:

14 (1) Evaluation procedures relating to the determination of apprenticeship credit for work expe-  
15 rience, education and training.

16 (2) Procedures for demonstrating the level of achievement required in any area of related in-  
17 struction, including but not limited to taking a qualifying examination of the course content.

18 **SECTION 65.** ORS 687.011 is amended to read:

19 687.011. As used in ORS 687.011 to 687.250, 687.895 and 687.991:

20 (1) "Board" means the State Board of Massage Therapists.

21 (2) "Certified class" means a class that is approved by the board and is offered:

22 (a) By a person or institution licensed as a career school under ORS 345.010 to 345.450;

23 (b) By a community college and approved by the [*State Board of Education*] **State Board of**  
24 **Higher Education**; or

25 (c) In another state and licensed or approved by the appropriate agency in that state.

26 (3) "Fraud or misrepresentation" means knowingly giving misinformation or a false impression  
27 through the intentional misstatement of, concealment of or failure to make known a material fact  
28 or by other means.

29 (4) "Manual" means the use of the hands or the feet, or both, or any part of the body in the  
30 performance of massage.

31 (5) "Massage" or "massage therapy" means the use on the human body of pressure, friction,  
32 stroking, tapping or kneading, vibration or stretching by manual or mechanical means or gymnas-  
33 tics, with or without appliances such as vibrators, infrared heat, sun lamps and external baths, and  
34 with or without lubricants such as salts, powders, liquids or creams for the purpose of, but not  
35 limited to, maintaining good health and establishing and maintaining good physical condition.

36 (6) "Massage therapist" means a person licensed under ORS 687.011 to 687.250, 687.895 and  
37 687.991 to practice massage.

38 (7) "Practice of massage" means the performance of massage:

39 (a) For purposes other than sexual contact, as defined in ORS 167.002 (5); and

40 (b) For compensation.

41 (8) "Preceptor" means a licensed massage therapist who contracts with an approved school or  
42 program of massage to provide direct on-site clinical supervision of a massage student enrolled in  
43 a certified class.

44 (9) "Supervision" means:

45 (a) The process of overseeing and directing the training of massage students as set forth in rules

1 of the **State Board of Massage Therapists**;

2 (b) The process of overseeing and directing a licensee being disciplined by the board; or

3 (c) Voluntary consultation with, and education of, less experienced licensed massage therapists  
4 or practitioners in related fields.

5 (10) "Treatment" means the selection, application and practice of massage or massage therapy  
6 essential to the effective execution and management of a plan of care.

7 (11) "Unprofessional or dishonorable conduct" means a behavior, practice or condition that is  
8 contrary to the ethical standards adopted by the board.

9 **SECTION 66.** ORS 351.647 is amended to read:

10 351.647. The Legislative Assembly finds that:

11 (1) It is in the interest of this state and its people that Oregon residents have access to the  
12 post-secondary institutions in the Northwest which best provide for the educational needs of those  
13 students;

14 (2) The people of Oregon and their post-secondary institutions benefit through the provision of  
15 access to Oregon colleges and universities for students from the state of Washington and from the  
16 enhanced economic and cultural well-being of the northwest region;

17 (3) The state should reduce or eliminate the nonresident tuition barriers which might exist be-  
18 tween the states of Oregon and Washington to restrict or inhibit enrollment of residents of one of  
19 these states in a community college or public college or university in the other state;

20 (4) The general policy statement on reduction of admission and tuition barriers between the  
21 states of Oregon and Washington shall not apply to students at the Oregon Health and Science  
22 University, where enrollment priority shall continue to be given to qualified Oregon residents; and

23 (5) The State Board of Higher Education [*and the State Board of Education*] shall develop plans  
24 to carry out the intent of this policy within the appropriations available, and shall report to the  
25 appropriate legislative review agency before implementing the plan.

26 **SECTION 67.** ORS 352.370 is amended to read:

27 352.370. (1) As used in this section, "school of higher education" means:

28 (a) Any [*school, institution or department under the jurisdiction of the State Board of Higher Ed-*  
29 *ucation*] **state institution of higher education listed in ORS 352.002.**

30 (b) Any community college as defined in ORS 341.005.

31 (2) No student shall be refused admission to a school of higher education or be expelled from  
32 such a school for the sole reason that, because of religious beliefs, the student is unable to attend  
33 classes on a particular day.

34 (3) Any student in a school of higher education who, because of religious beliefs, is unable to  
35 attend classes on a particular day shall be excused on that day from any examination, study re-  
36 quirement or work requirement. However, at the student's own expense the student shall make up  
37 the examination, study requirement or work requirement missed because of the absence.

38 **SECTION 68.** ORS 353.600 is amended to read:

39 353.600. As used in ORS 353.600 to 353.612:

40 (1) "Committee" means the Oregon Nursing Shortage Coalition Committee created in ORS  
41 353.606.

42 (2) "Post-secondary education institution" means:

43 (a) A state institution [*under the direction of the State Board of Higher Education*] **of higher**  
44 **education listed in ORS 352.002;**

45 (b) A community college operated under ORS chapter 341;

1 (c) A school or division of Oregon Health and Science University; or

2 (d) An Oregon-based, generally accredited, not-for-profit private institution of higher education.

3 **SECTION 69.** ORS 731.704 is amended to read:

4 731.704. (1) An educational institution or nonprofit corporation may receive a transfer of money  
5 or property conditioned upon its agreement to pay an annuity to the transferor or the nominee of  
6 the transferor, if the institution or nonprofit corporation holds a certificate of authority issued under  
7 subsection (3) of this section.

8 (2) Application for a certificate of authority shall be made in compliance with the rules of the  
9 Director of the Department of Consumer and Business Services. The director may by rule require  
10 such information relating to an educational institution or nonprofit corporation as the director  
11 considers desirable in the administration and enforcement of ORS 731.704 to 731.720.

12 (3) If the director finds that the application is in order, that the educational institution or  
13 nonprofit corporation is eligible to receive transfers under ORS 731.704 to 731.720 and that the in-  
14 stitution or nonprofit corporation has complied with subsection (4) of this section, the director shall  
15 issue a certificate of authority to the applicant upon payment of the fee established by the director.

16 (4) Each educational institution or nonprofit corporation applying for a certificate of authority  
17 shall designate one or more of its officers as its agent or agents to execute and issue agreements  
18 for the payment of an annuity.

19 (5) The director shall issue a certificate of authority only if:

20 (a) The institution is a private nonprofit college or university that is accredited by the North-  
21 west Association of Schools and Colleges, or comparable accrediting association, and has been op-  
22 erating for 20 years;

23 (b) The institution is a graduate school or college that has continuously operated in this state  
24 for at least 20 years immediately prior to the application for a certificate of authority, and has fi-  
25 nancial resources satisfactory to the director to maintain the reserve fund required under ORS  
26 731.716;

27 (c) The institution is *[operated by the State Board of Higher Education]* **a state institution of**  
28 **higher education listed in ORS 352.002;**

29 (d) The institution is a community college operated under ORS chapter 341;

30 (e) The nonprofit corporation is an independent Oregon nonprofit corporation which is either  
31 recognized by the State Board of Higher Education as affiliated with and operated solely or sub-  
32 stantially for the benefit of *[an institution operated by the State Board of Higher Education]* **a state**  
33 **institution of higher education listed in ORS 352.002** or is recognized by a community college  
34 district established and operated under ORS chapter 341 as affiliated with and operated solely or  
35 substantially for the benefit of a community college established and operated under ORS chapter  
36 341;

37 (f) The nonprofit corporation is a hospital as defined in ORS 442.015, licensed by the Department  
38 of Human Services under ORS chapter 441 and owning real or personal property that is exempt from  
39 taxation as provided in ORS 307.130 or is a hospital foundation;

40 (g) The nonprofit corporation is a religious organization which is currently in existence in  
41 Oregon and is exempt from taxation under section 501 (c) (3) of the federal Internal Revenue Code;

42 (h) The nonprofit corporation is a museum or is principally organized to engage in or promote  
43 the performing arts, has continuously operated in this state for at least 20 years immediately prior  
44 to the application for a certificate of authority, has resources satisfactory to the director to main-  
45 tain the reserve fund required under ORS 731.716 and is exempt from taxation under section 501 (c)

1 (3) of the Internal Revenue Code. For purposes of this subsection, performing arts includes but is  
 2 not necessarily limited to the presentation of theater, dance, music or opera;

3 (i) The nonprofit corporation is a national voluntary health organization that has a local com-  
 4 ponent operating in this state and is exempt from taxation under section 501 (c) (3) of the federal  
 5 Internal Revenue Code; or

6 (j) The nonprofit corporation:

7 (A) Is a charitable corporation, as defined in ORS 128.620;

8 (B) Is exempt from taxation under section 501 (c) (3) of the Internal Revenue Code;

9 (C) Is not a private foundation as defined in section 509 (a) (1) of the Internal Revenue Code;

10 (D) Has operated continuously in this state for at least 10 years immediately prior to the ap-  
 11 plication for a certificate of authority; and

12 (E) Has financial resources satisfactory to the director to maintain the reserve fund required  
 13 under ORS 731.716.

14 (6) As used in subsection (5) of this section, a “hospital foundation” means an organization that  
 15 meets the following criteria:

16 (a) Is organized nonprofit under the laws of this state, another state or the United States and:

17 (A) Is organized, and at all times thereafter is operated, for the benefit of, to perform the func-  
 18 tions of, or to carry out the purposes of one or more nonprofit hospitals; or

19 (B) Is operated, supervised or controlled by or in connection with one or more nonprofit hospi-  
 20 tals;

21 (b) Permits no part of its net earnings to inure to the benefit of any private stockholder or in-  
 22 dividual; and

23 (c) Provides in its articles or other governing instrument that, upon dissolution, the assets re-  
 24 maining after satisfying all lawful debts and liabilities shall be distributed to one or more organ-  
 25 izations granted exemption or right to claim exemption for property under ORS chapter 307 by  
 26 reason of being a religious, literary, educational, benevolent, charitable or scientific organization  
 27 or institution, a public body or a nonprofit hospital.

28 **SECTION 70. The duties, functions and powers of the State Board of Education relating**  
 29 **to community colleges are imposed upon, transferred to and vested in the State Board of**  
 30 **Higher Education.**

31 **SECTION 71. (1) The State Board of Education shall:**

32 (a) **Deliver to the State Board of Higher Education all records and property within the**  
 33 **jurisdiction of the State Board of Education that relate to the duties, functions and powers**  
 34 **transferred by section 70 of this 2005 Act; and**

35 (b) **Transfer to the State Board of Higher Education those employees engaged primarily**  
 36 **in the exercise of the duties, functions and powers transferred by section 70 of this 2005 Act.**

37 (2) **The State Board of Higher Education shall take possession of the records and prop-**  
 38 **erty, and shall take charge of the employees and employ them in the exercise of the duties,**  
 39 **functions and powers transferred by section 70 of this 2005 Act, without reduction of com-**  
 40 **penensation but subject to change or termination of employment or compensation as provided**  
 41 **by law.**

42 (3) **The Governor shall resolve any dispute between the State Board of Education and the**  
 43 **State Board of Higher Education relating to transfers of records, property and employees**  
 44 **under this section, and the Governor’s decision is final.**

45 **SECTION 72. (1) The unexpended balances of amounts authorized to be expended by the**

1 State Board of Education for the biennium beginning July 1, 2005, from revenues dedicated,  
2 continuously appropriated, appropriated or otherwise made available for the purpose of ad-  
3 ministering and enforcing the duties, functions and powers transferred by section 70 of this  
4 2005 Act are appropriated and transferred to and are available for expenditure by the State  
5 Board of Higher Education for the biennium beginning July 1, 2005, for the purpose of ad-  
6 ministering and enforcing the duties, functions and powers transferred by section 70 of this  
7 2005 Act.

8 (2) The expenditure classifications, if any, established by Acts authorizing or limiting  
9 expenditures by the State Board of Education remain applicable to expenditures by the State  
10 Board of Higher Education under this section.

11 **SECTION 73.** The transfer of duties, functions and powers to the State Board of Higher  
12 Education by section 70 of this 2005 Act does not affect any action, proceeding or prosecution  
13 involving or with respect to such duties, functions and powers begun before and pending at  
14 the time of the transfer, except that the State Board of Higher Education is substituted for  
15 the State Board of Education in the action, proceeding or prosecution.

16 **SECTION 74.** (1) Nothing in sections 70 to 76 of this 2005 Act relieves a person of a li-  
17 ability, duty or obligation accruing under or with respect to the duties, functions and powers  
18 transferred by section 70 of this 2005 Act. The State Board of Higher Education may under-  
19 take the collection or enforcement of any such liability, duty or obligation.

20 (2) The rights and obligations of the State Board of Education legally incurred under  
21 contracts, leases and business transactions executed, entered into or begun before the op-  
22 erative date of section 70 of this 2005 Act accruing under or with respect to the duties,  
23 functions and powers transferred by section 70 of this 2005 Act are transferred to the State  
24 Board of Higher Education. For the purpose of succession to these rights and obligations, the  
25 State Board of Higher Education is a continuation of the State Board of Education and not  
26 a new authority.

27 **SECTION 75.** Notwithstanding the transfer of duties, functions and powers by section 70  
28 of this 2005 Act, the rules of the State Board of Education with respect to such duties,  
29 functions or powers that are in effect on the operative date of section 70 of this 2005 Act  
30 continue in effect until superseded or repealed by rules of the State Board of Higher Educa-  
31 tion. References in such rules of the State Board of Education to the State Board of Edu-  
32 cation or an officer or employee of the State Board of Education are considered to be  
33 references to the State Board of Higher Education or an officer or employee of the State  
34 Board of Higher Education.

35 **SECTION 76.** Whenever, in any uncodified law or resolution of the Legislative Assembly  
36 or in any rule, document, record or proceeding authorized by the Legislative Assembly, in  
37 the context of the duties, functions and powers transferred by section 70 of this 2005 Act,  
38 reference is made to the State Board of Education, or an officer or employee of the State  
39 Board of Education, whose duties, functions or powers are transferred by section 70 of this  
40 2005 Act, the reference is considered to be a reference to the State Board of Higher Educa-  
41 tion or an officer or employee of the State Board of Higher Education who by this 2005 Act  
42 is charged with carrying out such duties, functions and powers.

43 **SECTION 77.** Sections 1, 2 and 70 to 76 of this 2005 Act and the amendments to statutes  
44 and session law by sections 3 to 69 of this 2005 Act become operative on July 1, 2006.