

Senate Bill 807

Sponsored by Senator FERRIOLI

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**.

Provides that cities and counties that meet certain criteria are job creation zones. Extends certain benefits to job creation zones and residents and employers in job creation zones.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to job creation; creating new provisions; amending ORS 197.732, 314.668, 314.671, 316.037,
3 316.043, 316.044, 316.122, 327.008, 339.030 and 339.505 and section 7, chapter 1, Oregon Laws
4 2012 (special session); and prescribing an effective date.

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

ESTABLISHMENT OF JOB CREATION ZONES

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9 **SECTION 1.** (1) A city or county qualifies as a job creation zone if:

10 (a) During the two most recent years, at least 25 percent of the residents of the city or
11 county have had incomes below 75 percent of the median income of this state;

12 (b) The rate of unemployment exceeded seven percent for the two most recent years; or

13 (c) The population of the city or county has declined in the two most recent federal
14 decennial censuses or for the five most recent years.

15 (2) A city or county that has qualified as a job creation zone remains a job creation zone
16 for 10 years after the city or county no longer meets the qualifications of subsection (1) of
17 this section.

18 (3) Notwithstanding any other provision of ORS chapter 316 or 317, a tax may not be
19 imposed on capital gains earned on investments made by residents of a job creation zone.

20 (4) A city or county that is a job creation zone may waive any state regulation that in-
21 hibits job growth if:

22 (a) The regulation creates a compliance burden totaling at least \$100,000 for individuals
23 and businesses within the job creation zone; or

24 (b) The regulation is not the most cost-efficient method of achieving the purpose within
25 the job creation zone.

PERSONAL INCOME TAX

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29 **SECTION 2.** ORS 316.037 is amended to read:

30 316.037. (1)(a) A tax is imposed for each taxable year on the entire taxable income of every
31 resident of this state. **Except as provided in subsection (2) of this section**, the amount of the tax

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 shall be determined in accordance with the following table:

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(b) For tax years beginning in each calendar year, the Department of Revenue shall adopt a table that shall apply in lieu of the table contained in paragraph (a) of this subsection, as follows:

(A) Except as provided in subparagraph (D) of this paragraph, the minimum and maximum dollar amounts for each bracket for which a tax is imposed shall be increased by the cost-of-living adjustment for the calendar year.

(B) The rate applicable to any rate bracket as adjusted under subparagraph (A) of this paragraph shall not be changed.

(C) The amounts setting forth the tax, to the extent necessary to reflect the adjustments in the rate brackets, shall be adjusted.

(D) The rate brackets applicable to taxable income in excess of \$125,000 may not be adjusted.

(c) For purposes of paragraph (b) of this subsection, the cost-of-living adjustment for any calendar year is the percentage (if any) by which the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the monthly averaged index for the second quarter of the calendar year 1992.

(d) As used in this subsection, "U.S. City Average Consumer Price Index" means the U.S. City Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor Statistics of the United States Department of Labor.

(e) If any increase determined under paragraph (b) of this subsection is not a multiple of \$50, the increase shall be rounded to the next lower multiple of \$50.

(2)(a) For residents of a job creation zone as described in section 1 of this 2015 Act, the amount of the tax shall be determined in accordance with the following table:

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If taxable income is:	The tax is:
Not over \$6,300	5% of taxable income
Over \$6,300 but not over \$15,900	\$315 plus 7% of the excess over \$6,300
Over \$15,900 but not over \$125,000	\$987 plus 9% of the excess over \$15,900
Over \$125,000	\$10,806 plus 9.9% of the excess over \$125,000

(b) For tax years beginning in each calendar year, the Department of Revenue shall adopt a table that shall apply in lieu of the table contained in paragraph (a) of this subsection, as follows:

(A) Except as provided in subparagraph (D) of this paragraph, the minimum and maximum dollar amounts for each bracket for which a tax is imposed shall be increased by the cost-of-living adjustment for the calendar year.

(B) The rate applicable to any rate bracket as adjusted under subparagraph (A) of this paragraph shall not be changed.

(C) The amounts setting forth the tax, to the extent necessary to reflect the adjustments in the rate brackets, shall be adjusted.

(D) The rate brackets applicable to taxable income in excess of \$125,000 may not be adjusted.

(c) For purposes of paragraph (b) of this subsection, the cost-of-living adjustment for any calendar year is the percentage (if any) by which the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the monthly averaged index for the second quarter of the calendar year 2015.

(d) As used in this subsection, "U.S. City Average Consumer Price Index" means the U.S. City Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor Statistics of the United States Department of Labor.

(e) If any increase determined under paragraph (b) of this subsection is not a multiple of \$50, the increase shall be rounded to the next lower multiple of \$50.

[2] (3) A tax is imposed for each taxable year upon the entire taxable income of every part-year

1 resident of this state. The amount of the tax shall be computed under [subsection] **subsections (1)**
 2 **and (2)** of this section as if the part-year resident were a full-year resident and shall be multiplied
 3 by the ratio provided under ORS 316.117 to determine the tax on income derived from sources within
 4 this state.

5 [(3)] (4) A tax is imposed for each taxable year on the taxable income of every full-year non-
 6 resident that is derived from sources within this state. The amount of the tax shall be determined
 7 in accordance with the [table] **tables** set forth in [subsection] **subsections (1) and (2)** of this section.

8 **SECTION 3.** ORS 316.122 is amended to read:

9 316.122. (1) If the federal taxable income of husband and wife (one being a part-year resident and
 10 the other a nonresident) is determined on a joint federal return, their taxable income in this state
 11 shall be separately determined, unless they elect to file a joint return, in which case their tax on
 12 their joint income shall be determined in this state pursuant to ORS 316.037 [(3)] (4).

13 (2) If the federal taxable income of husband and wife (one being a full-year resident and the
 14 other a part-year resident) is determined on a joint federal return, their taxable income in this state
 15 shall be separately determined, unless they elect to file a joint return, in which case their tax on
 16 their joint income shall be determined in this state pursuant to ORS 316.037 [(2)] (3).

17 (3) If the federal taxable income of husband and wife (one being a full-year resident and the
 18 other a nonresident) is determined on a joint federal return, their taxable income in the state shall
 19 be separately determined, unless they elect to file a joint return, in which case their tax on their
 20 joint income shall be determined in this state pursuant to ORS 316.037 [(3)] (4).

21 (4) For purposes of computing the tax of a husband and wife under this section, if one of the
 22 spouses is a full-year resident individual, then as used in ORS 316.037 [(2) or] (3) **or (4)**, that spouse's
 23 taxable income derived from Oregon sources is that spouse's entire federal taxable income, defined
 24 in the laws of the United States, with the modifications, additions and subtractions provided in this
 25 chapter and other laws of this state applicable to personal income taxation.

26 (5) The provisions of ORS 316.367 with respect to joint returns apply if both husband and wife
 27 are part-year residents or full-year nonresidents.

28 **SECTION 4. The amendments to ORS 316.037 and 316.122 by sections 2 and 3 of this 2015**
 29 **Act apply to tax years beginning on or after January 1, 2015.**

30 **PASS-THROUGH ENTITIES**

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 33 **SECTION 5.** ORS 316.043, as amended by section 6, chapter 114, Oregon Laws 2014, is amended
 34 to read:

35 316.043. (1) As used in this section:

36 (a) "Material participation" has the meaning given that term in section 469 of the Internal Re-
 37 venue Code.

38 (b) "Nonpassive income" means income other than income from passive activity as determined
 39 under section 469 of the Internal Revenue Code. "Nonpassive income" does not include wages, in-
 40 terest, dividends or capital gains.

41 (c) "Nonpassive loss" means loss other than loss from passive activity as determined under
 42 section 469 of the Internal Revenue Code.

43 (2) If a taxpayer that meets the [conditions] **condition** of subsection [(6)] (7) of this section has
 44 nonpassive income attributable to any partnership or S corporation **or to any entity in a job cre-**
 45 **ation zone as described in section 1 of this 2015 Act that is a sole proprietorship, single**

1 **member limited liability company or any other pass-through entity**, after reduction for non-
 2 passive losses, that portion of the taxpayer's income that meets the [*conditions*] **condition** of sub-
 3 section [(6)] (7) of this section shall be taxed at:

4 (a) The rate applicable under ORS 316.037; or

5 (b) At the election of the taxpayer, a rate of:

6 (A) Seven percent of the first \$250,000 of taxable income, or fraction thereof;

7 (B) Seven and two-tenths percent of taxable income exceeding \$250,000 but not exceeding
 8 \$500,000;

9 (C) Seven and six-tenths percent of taxable income exceeding \$500,000 but not exceeding \$1
 10 million;

11 (D) Eight percent of taxable income exceeding \$1 million but not exceeding \$2.5 million;

12 (E) Nine percent of taxable income exceeding \$2.5 million but not exceeding \$5 million; and

13 (F) Nine and nine-tenths percent of taxable income exceeding \$5 million.

14 (3)(a) **Beginning in 2017, the Department of Revenue shall annually adjust the income**
 15 **thresholds listed in subsection (2) of this section according to the cost-of-living adjustment**
 16 **for the calendar year. The department shall make the adjustment by multiplying the**
 17 **threshold dollar amounts in subsection (2) of this section by the percentage (if any) by which**
 18 **the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive**
 19 **months ending August 31 of the prior calendar year exceeds the monthly averaged index for**
 20 **the 12 consecutive months ending August 31, 2015.**

21 (b) **As used in this subsection, "U.S. City Average Consumer Price Index" means the U.S.**
 22 **City Average Consumer Price Index for All Urban Consumers (All Items) as published by the**
 23 **Bureau of Labor Statistics of the United States Department of Labor.**

24 [(3)] (4) The reduced rates allowed under subsection (2)(b) of this section may be adjusted as
 25 provided in ORS 316.044.

26 [(4)] (5) A taxpayer shall use the subtractions, deductions or additions otherwise allowed under
 27 this chapter in the calculation of income that is taxed at the rates otherwise applicable under ORS
 28 316.037. The only addition or subtraction allowed in the calculation of nonpassive income for which
 29 the taxpayer uses the reduced rates allowed under subsection (2)(b) of this section shall be any de-
 30 preciation adjustment directly related to the [*partnership or S corporation*] **pass-through entity**.

31 [(5)] (6) The election under subsection (2)(b) of this section [*shall be irrevocable and shall*] **may**
 32 **be revoked and may** be made on the taxpayer's original **or amended** return. If the taxpayer uses
 33 the reduced rates allowed under subsection (2)(b) of this section, the calculation of income shall be
 34 substantiated on a form prescribed by the Department of Revenue and filed with the taxpayer's tax
 35 return for the tax year or at such other time and manner as the department may prescribe by rule.
 36 A taxpayer who uses the reduced rates available under subsection (2)(b) of this section may not join
 37 in the filing of a composite return under ORS 314.778.

38 [(6)] (7) The rates listed in subsection (2)(b) of this section apply to nonpassive income attrib-
 39 utable to a [*partnership or S corporation*] **pass-through entity** only if[.]:

40 [(a)] the taxpayer materially participates in the trade or business.[.];

41 [(b)] *The partnership or S corporation employs at least one person who is not an owner, member*
 42 *or limited partner of the partnership or S corporation; and]*

43 [(c)] *At least 1,200 aggregate hours of work in Oregon are performed, by the close of the tax year*
 44 *for which the reduced rate is allowed, by employees who meet the requirements of paragraph (b) of this*
 45 *subsection and who are employed by the partnership or S corporation. In determining whether this*

1 *requirement is met, only hours worked in a week in which a worker works at least 30 hours may be*
2 *considered.]*

3 [(7)(a)] **(8)(a)** A nonresident may apply the reduced rates allowed under subsection (2)(b) of this
4 section only to income earned in Oregon.

5 (b) A part-year resident shall calculate the tax due using the reduced rates allowed under sub-
6 section (2)(b) of this section by first applying those rates to the taxpayer's nonpassive income that
7 meets the *[requirements]* **condition** of subsection [(6)] (7) of this section, and then multiplying that
8 amount by the ratio of the taxpayer's nonpassive income in Oregon divided by nonpassive income
9 from all sources.

10 **SECTION 6.** ORS 316.044 is amended to read:

11 316.044. (1)(a) As soon as practicable, the Legislative Revenue Officer, after consultation with
12 the Department of Revenue, shall prepare estimates of projected use by taxpayers of the reduced
13 rates provided in ORS 316.043 (2). The estimates shall **be based on ORS 316.043, as amended by**
14 **section 5 of this 2015 Act, and shall** include the projected use of the reduced rates in tax years
15 beginning on or after January 1, 2015, and before January 1, 2017, and in tax years beginning on
16 or after January 1, 2019, and before January 1, 2021. The estimates shall express as a ratio the re-
17 venue loss anticipated as a result of the reduced rates of taxation in ORS 316.043 (2), divided by
18 projected total income in this state, for those tax years.

19 (b) Not later than July 1, 2018, the Legislative Revenue Officer shall report to an interim com-
20 mittee of the Legislative Assembly related to revenue regarding the use of the reduced rates pro-
21 vided in ORS 316.043 (2). The report shall express as a ratio, for tax years beginning on or after
22 January 1, 2015, and before January 1, 2017, the actual revenue loss resulting from the allowance
23 of reduced rates of taxation provided in ORS 316.043 (2) divided by actual total income in this state
24 for those tax years. If the ratio exceeds the ratio calculated under paragraph (a) of this subsection
25 by more than 15 percent, the rates listed in ORS 316.043 (2) shall be proportionately adjusted to
26 achieve a ratio of approximately 105 percent of the ratio calculated in subsection (1)(a) of this sec-
27 tion for tax years beginning on or after January 1, 2015, and before January 1, 2017, but may in no
28 event exceed 9.9 percent of taxable income or be reduced to less than the original rate provided in
29 ORS 316.043 (2).

30 (c) The adjusted rates provided under paragraph (b) of this subsection shall apply to tax years
31 beginning on or after January 1, 2019.

32 (2)(a) Not later than July 1, 2022, the Legislative Revenue Officer shall report to an interim
33 committee of the Legislative Assembly related to revenue regarding the use of the reduced rates
34 provided in ORS 316.043 (2). The report shall express as a ratio, for tax years beginning on or after
35 January 1, 2019, and before January 1, 2021, the actual revenue loss resulting from the allowance
36 of reduced rates of taxation provided in ORS 316.043 (2) divided by actual total income in this state
37 for those tax years. If the ratio exceeds the ratio included in the estimate required under subsection
38 (1)(a) of this section for tax years beginning on or after January 1, 2019, and before January 1, 2021,
39 by more than 25 percent, the rates listed in ORS 316.043 (2) shall be proportionately adjusted to
40 achieve a ratio of approximately 115 percent of the ratio calculated in subsection (1)(a) of this sec-
41 tion for tax years beginning on or after January 1, 2019, and before January 1, 2021. If the ratio is
42 less than 75 percent of the ratio included in the estimate required under subsection (1)(a) of this
43 section for tax years beginning on or after January 1, 2019, and before January 1, 2021, the rates
44 listed in ORS 316.043 (2) shall be proportionately adjusted to achieve a ratio of approximately 85
45 percent of the ratio calculated in subsection (1)(a) of this section for tax years beginning on or after

1 January 1, 2019, and before January 1, 2021. The adjusted rates under this subsection may in no
 2 event exceed 9.9 percent of taxable income or be reduced to lower than the original rate provided
 3 in ORS 316.043 (2).

4 (b) The adjusted rates provided under paragraph (a) of this subsection shall apply to tax years
 5 beginning on or after January 1, 2023.

6
 7 **INVESTMENT CONTRACTS WITH THE STATE**

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 9 **SECTION 7.** ORS 314.668 is amended to read:

10 314.668. As used in ORS 314.668 to 314.673:

11 (1) “Actual cost” means the costs of labor, materials, supplies, equipment rental, real or personal
 12 property acquisition, permits, engineering, financing, required fees, insurance, administration, ac-
 13 counting, maintenance, repair or replacement and debt service, and all other direct or indirect costs
 14 incurred by a person in order to undertake a capital project, or of more than one capital project
 15 undertaken by the same taxpayer as part of the same qualifying investment.

16 (2) “Capital project” means a project within this state for the construction, modification, re-
 17 placement, repair, remodeling or renovation of a structure or structures, addition to a structure or
 18 structures, or other capital improvement, that qualifies as a qualifying investment, including but not
 19 limited to:

20 (a) Acquisition of a legal interest or right in land or property in conjunction with the capital
 21 improvement, including but not limited to the purchase, lease or occupancy of real property, in-
 22 cluding the buildings, structures, infrastructure and leasehold improvements on the land or property;

23 (b) Acquisition of existing structures, or legal interests or rights in structures, in conjunction
 24 with the capital improvement;

25 (c) Acquisition and installation of machinery or equipment, furnishings, fixtures or other per-
 26 sonal property or materials, in conjunction with the capital improvement; or

27 (d) Services and activities performed in relation to the capital improvement, including planning,
 28 design, authorizing, issuing, carrying or repaying interim or permanent financing, research, study
 29 of land use and environmental impacts, acquiring permits or licenses, or other services connected
 30 with the capital improvement, and costs associated with the performance of these services and ac-
 31 tivities.

32 (3) “Debt service” includes debt service payments or payments into reserve accounts for debt
 33 service and payment of amounts necessary to meet debt service coverage requirements.

34 (4) “Qualifying investment” means expenditures made by the taxpayer relating to a capital
 35 project:

36 (a) The actual cost of which exceeds [*\$150 million within a five-year*] **a minimum dollar**
 37 **amount, negotiated by the Governor and the Director of the Department of Revenue with the**
 38 **taxpayer, spent within a stated time** period measured from the commencement of the term of the
 39 qualifying investment contract, **negotiated by the Governor and the Director of the Department**
 40 **of Revenue with the taxpayer;** and

41 (b) That result in the taxpayer employing:

42 (A) At least 500 more full-time equivalent employees in this state than the taxpayer employed
 43 in this state when the qualifying investment was commenced; **or**

44 (B) **A minimum number of full-time equivalent employees in a job creation zone as de-**
 45 **scribed in section 1 of this 2015 Act that is greater than the number of full-time equivalent**

1 **employees employed by the taxpayer in the job creation zone when the qualifying investment**
 2 **is commenced. The Governor and the Director of the Department of Revenue shall negotiate**
 3 **the minimum number of full-time equivalent employees with the taxpayer.**

4 (5) "Qualifying investment contract" means a contract between the State of Oregon and a tax-
 5 payer that meets the requirements of ORS 314.671.

6 (6) "Single sales factor method" means the method of business income apportionment required
 7 under ORS 314.650 and 314.665 and the rules adopted thereunder, as in effect on the date a quali-
 8 fying investment contract is executed.

9 (7) "Term of the qualifying investment contract" means the duration of the parties' obligations
 10 under a qualifying investment contract.

11 **SECTION 8.** ORS 314.671 is amended to read:

12 314.671. (1) The Governor, in consultation with the Director of the Oregon Business Develop-
 13 ment Department and the Director of the Department of Revenue, may enter into, on behalf of the
 14 State of Oregon, a qualifying investment contract with any taxpayer according to the provisions of
 15 ORS 314.668 to 314.673.

16 (2) Any contract executed pursuant to subsection (1) of this section on or after December 14,
 17 2012, and before March 15, 2013, that meets the requirements of a qualifying investment contract is
 18 ratified by ORS 314.668 to 314.673.

19 (3) A taxpayer may not satisfy the requirement that a qualifying investment result in an increase
 20 in the number of employees of the taxpayer by gain of another entity's existing Oregon employees
 21 through a merger or acquisition of any portion of that entity.

22 *[(4) A qualifying investment contract executed under ORS 314.668 to 314.673 may not be less than*
 23 *five years' duration and may not exceed 30 years' duration.]*

24 *[(5)]* (4) The obligations of the State of Oregon under a qualifying investment contract:

25 (a) Include the promise of this state that, if the taxpayer commences a qualifying investment, the
 26 taxpayer's Oregon business income tax liability may not exceed the amount the taxpayer would pay
 27 or owe under the single sales factor method for each tax year that ends during the term of the
 28 qualifying investment contract; and

29 (b) May not be abridged, impaired, limited or modified by any subsequent law.

30 *[(6)]* (5) If a taxpayer that has executed a qualifying investment contract files a report or return
 31 with the Department of Revenue for a tax year ending during the term of the qualifying investment
 32 contract and reporting personal income taxes or corporate excise or income taxes imposed under
 33 ORS chapter 316, 317 or 318, that are determined in whole or part by apportioning business income
 34 using the single sales factor method, the department may not assess a deficiency against the tax-
 35 payer that is attributable to the use of a different method of apportionment.

36 *[(7)]* (6) An action for a breach of a qualifying investment contract may be brought against the
 37 State of Oregon.

38 *[(8)]* (7) The sole and exclusive remedies for the State of Oregon in an action for breach of a
 39 qualifying investment contract brought by the state shall be:

40 (a) A judgment rescinding the qualifying investment contract; and

41 (b) A judgment awarding an amount equal to the difference, if any, between:

42 (A) The amount of taxes due from the taxpayer under the single sales factor method from the
 43 date of breach through termination of the qualifying investment contract; and

44 (B) The amount of taxes due from the taxpayer during the same period using the method of ap-
 45 portioning business income:

1 (i) Under the tax laws that would have applied to the taxpayer but for the qualifying investment
 2 contract; or

3 (ii) Identified in the judgment as fairly representing the extent of the taxpayer’s business activ-
 4 ity in this state.

5 **SECTION 9.** Section 7, chapter 1, Oregon Laws 2012 (special session), is amended to read:

6 **Sec. 7. (1)** A qualifying investment contract as defined in [section 3 of this 2012 special session
 7 Act] **ORS 314.668 for a qualifying investment that meets the requirements of ORS 314.668**
 8 **(4)(b)(A)** may not be entered into:

9 [(1)] (a) Before December 14, 2012.

10 [(2)] (b) On or after January 1, 2014.

11 **(2) A qualifying investment contract as defined in ORS 314.668 for a qualifying investment**
 12 **that meets the requirements of ORS 314.668 (4)(b)(B) may not be entered into before De-**
 13 **cember 14, 2012.**

14
 15 **TAX CREDIT FOR COST OF OFFERING**
 16 **PAID LEAVE AND FLEXTIME**
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18 **SECTION 10.** Section 11 of this 2015 Act is added to and made a part of ORS chapter 315.

19 **SECTION 11. (1)** A taxpayer shall be allowed a credit against the taxes that are otherwise
 20 due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or
 21 318, for the cost of offering paid family leave, paid sick time or flextime to employees work-
 22 ing in a job creation zone as described in section 1 of this 2015 Act.

23 **(2)** The amount of the credit shall equal 50 percent of the cost of offering paid family
 24 leave, paid sick time or flextime to employees working in a job creation zone, but may not
 25 exceed the tax liability of the taxpayer for the tax year.

26 **(3)** In the case of a credit allowed under this section for purposes of ORS chapter 316:

27 **(a)** A nonresident shall be allowed the credit under this section in the proportion provided
 28 in ORS 316.117.

29 **(b)** If a change in the status of a taxpayer from resident to nonresident or from nonres-
 30 ident to resident occurs, the credit allowed under this section shall be determined in a
 31 manner consistent with ORS 316.117.

32 **(c)** A husband and wife who file separate returns for a taxable year may each claim a
 33 share of the tax credit that would have been allowed on a joint return in proportion to the
 34 contribution of each.

35 **(d)** If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or
 36 if the Department of Revenue terminates the taxpayer’s taxable year under ORS 314.440, the
 37 credit allowed under this section shall be prorated or computed in a manner consistent with
 38 ORS 314.085.

39 **SECTION 12.** Section 11 of this 2015 Act applies to tax years beginning on or after Jan-
 40 uary 1, 2016, and before January 1, 2022.

41
 42 **SUBTRACTION OF BUSINESS EXPENSES**
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44 **SECTION 13.** Section 14 of this 2015 Act is added to and made a part of ORS chapter 314.

45 **SECTION 14. (1)** Notwithstanding ORS 314.011, as used in subsection (2) of this section,

1 section 179 of the Internal Revenue Code refers to the Internal Revenue Code as amended
 2 and in effect on December 31, 2013, and as applicable to tax years beginning on or after
 3 January 1, 2013, and before January 1, 2014.

4 (2) As provided in section 179 of the Internal Revenue Code, there may be subtracted
 5 from federal taxable income an amount equal to the amount allowed as a deduction for ex-
 6 pensing as a business asset, if the asset is placed in service in a job creation zone as de-
 7 scribed in section 1 of this 2015 Act during the tax year.

8 (3) Amounts subtracted from federal taxable income under subsection (2) of this section
 9 must thereafter be added to federal taxable income in the tax year in which the amounts are
 10 otherwise deductible.

11 **SECTION 15.** Section 14 of this 2015 Act applies to tax years beginning on or after Jan-
 12 uary 1, 2016.

13 LAND USE EXCEPTIONS

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 16 **SECTION 16.** ORS 197.732 is amended to read:

17 197.732. (1) As used in this section:

18 (a) "Compatible" is not intended as an absolute term meaning no interference or adverse impacts
 19 of any type with adjacent uses.

20 (b) "Exception" means a comprehensive plan provision, including an amendment to an acknowl-
 21 edged comprehensive plan, that:

22 (A) Is applicable to specific properties or situations and does not establish a planning or zoning
 23 policy of general applicability;

24 (B) Does not comply with some or all goal requirements applicable to the subject properties or
 25 situations; and

26 (C) Complies with standards under subsection (2) of this section.

27 (2) **Except as provided in subsection (3) of this section,** a local government may adopt an
 28 exception to a goal if:

29 (a) The land subject to the exception is physically developed to the extent that it is no longer
 30 available for uses allowed by the applicable goal;

31 (b) The land subject to the exception is irrevocably committed as described by Land Conserva-
 32 tion and Development Commission rule to uses not allowed by the applicable goal because existing
 33 adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable;
 34 or

35 (c) The following standards are met:

36 (A) Reasons justify why the state policy embodied in the applicable goals should not apply;

37 (B) Areas that do not require a new exception cannot reasonably accommodate the use;

38 (C) The long term environmental, economic, social and energy consequences resulting from the
 39 use at the proposed site with measures designed to reduce adverse impacts are not significantly
 40 more adverse than would typically result from the same proposal being located in areas requiring
 41 a goal exception other than the proposed site; and

42 (D) The proposed uses are compatible with other adjacent uses or will be so rendered through
 43 measures designed to reduce adverse impacts.

44 (3) **A local government that is a job creation zone as described in section 1 of this 2015**
 45 **Act may adopt an exception to a goal for a use that is allowed by the goal, but cannot comply**

1 **with the approval standards for that type of use, if the use is necessary for an employer to**
 2 **create five or more new jobs in the job creation zone without finding that the standards of**
 3 **subsection (2) of this section have been met. Notwithstanding subsection (5) of this section,**
 4 **the local government approving or denying the proposed exception under this subsection**
 5 **shall set forth findings of fact required for an exception under this subsection, but need not**
 6 **set forth a statement of reasons that demonstrate that the standards of subsection (2) of**
 7 **this section have or have not been met.**

8 [(3)] (4) The commission shall adopt rules establishing:

9 (a) That an exception **under subsection (2) of this section** may be adopted to allow a use au-
 10 thorized by a statewide planning goal that cannot comply with the approval standards for that type
 11 of use;

12 (b) Under what circumstances particular reasons may or may not be used to justify an exception
 13 under subsection (2)(c)(A) of this section; and

14 (c) Which uses allowed by the applicable goal must be found impracticable under subsection (2)
 15 of this section.

16 [(4)] (5) A local government approving or denying a proposed exception shall set forth findings
 17 of fact and a statement of reasons that demonstrate that the standards of subsection (2) of this
 18 section have or have not been met.

19 [(5)] (6) Each notice of a public hearing on a proposed exception shall specifically note that a
 20 goal exception is proposed and shall summarize the issues in an understandable manner.

21 [(6)] (7) Upon review of a decision approving or denying an exception **under subsection (2) of**
 22 **this section:**

23 (a) The Land Use Board of Appeals or the commission shall be bound by any finding of fact for
 24 which there is substantial evidence in the record of the local government proceedings resulting in
 25 approval or denial of the exception;

26 (b) The board upon petition, or the commission, shall determine whether the local government's
 27 findings and reasons demonstrate that the standards of subsection (2) of this section have or have
 28 not been met; and

29 (c) The board or commission shall adopt a clear statement of reasons that sets forth the basis
 30 for the determination that the standards of subsection (2) of this section have or have not been met.

31 [(7)] (8) The commission shall by rule establish the standards required to justify an exception
 32 to the definition of "needed housing" authorized by ORS 197.303.

33 [(8)] (9) An exception acknowledged under ORS 197.251, 197.625 or 197.630 (1) (1981 Replacement
 34 Part) on or before August 9, 1983, continues to be valid and is not subject to this section.

35
 36 **OREGON EMPOWERMENT SCHOLARSHIP PROGRAM**

37
 38 **SECTION 17. As used in sections 17 to 22 of this 2015 Act:**

39 (1) "Enrolled student" means a student who is a resident of a job creation zone and is
 40 enrolled in the Oregon Empowerment Scholarship Program.

41 (2) "Job creation zone" means a city or county described in section 1 of this 2015 Act.

42 (3) "Parent" means a resident of a job creation zone who is a parent or legal guardian
 43 of a student seeking to enroll or enrolled in the Oregon Empowerment Scholarship Program.

44 (4) "Post-secondary institution of education" means:

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

1 (b) A public university listed in ORS 352.002 or the Oregon Health and Science University;
 2 or

3 (c) A generally accredited, private post-secondary institution of education located in
 4 Oregon.

5 (5) “Qualified expenses” means the following expenses of an enrolled student:

6 (a) Tuition or fees at a school described in ORS 339.030 (1)(a) for a complete course of
 7 study for a particular content area or grade level, including the costs for any textbooks or
 8 required course materials;

9 (b) Tuition for instruction provided by a private teacher, as described in ORS 339.030
 10 (1)(d), including the costs for any course materials;

11 (c) The costs for any course materials incurred by a parent for providing instruction as
 12 described in ORS 339.030 (1)(e);

13 (d) Tuition for instruction provided at a public school or fees for extracurricular activ-
 14 ities at a public school that are provided to students at the public school free of charge;

15 (e) Related services, as defined in ORS 343.035;

16 (f) Educational therapies or educational services provided by a licensed or accredited
 17 practitioner or provider;

18 (g) Tutoring services provided by a person licensed by the Teacher Standards and Prac-
 19 tices Commission or licensed or accredited by any state, regional or national accreditation
 20 organization;

21 (h) Tuition, fees, textbooks or required course materials for a private online learning
 22 program;

23 (i) Tuition, fees, textbooks or required course materials at a post-secondary institution
 24 of education;

25 (j) Fees for a nationally normed assessment, an advanced placement examination or any
 26 other assessment or examination related to admission at, or receipt of credit through, a
 27 post-secondary institution of education;

28 (k) Contributions to an account in the Oregon 529 College Savings Network; and

29 (L) Fees for management of an individual account established under the Oregon
 30 Empowerment Scholarship Program.

31 (6) “Statewide average distribution” means an amount determined by the Department of
 32 Education each school year to equal the average per student distribution of State School
 33 Funds as general purpose grants for all school districts in this state, as adjusted by any
 34 weights described in ORS 327.013 (1)(c)(A).

35 **SECTION 18.** (1) The Oregon Empowerment Scholarship Program is established for the
 36 purpose of providing options in education to students who are residents of job creation zones
 37 in this state.

38 (2)(a) A parent may enroll or reenroll a student in the program by submitting an appli-
 39 cation to the Department of Education on the form and by the date required by the depart-
 40 ment, which may be no earlier than April 1. The application must show that the student is
 41 a resident of a job creation zone.

42 (b) In the case of a parent seeking reenrollment for a student, the student must show
 43 that the student participated in the program during a previous school year.

44 (c) Enrollment in the program is valid for one school year only and a parent must apply
 45 for reenrollment in the program for each subsequent school year.

1 **(3) The Department of Education shall enroll or reenroll the student in the program**
2 **upon:**

3 **(a) Finding that the student meets the qualifications described in subsection (2) of this**
4 **section; and**

5 **(b) Receiving acknowledgment from the parent that the parent accepts the terms of**
6 **participation in the program, including:**

7 **(A) Restrictions on the use of moneys received under the program for qualified expenses**
8 **only; and**

9 **(B) The requirement that the student:**

10 **(i) Receive at least an education in English, mathematics, social studies and science; and**

11 **(ii) Comply with the requirements specified in ORS 339.035 (3) to (5).**

12 **(4) An enrolled student may not be required to attend public full-time schools, as pro-**
13 **vided by ORS 339.030, but may receive part-time instruction at a public school and must pay**
14 **tuition for that instruction.**

15 **(5)(a) Upon enrolling or reenrolling a student in the program, the department shall notify**
16 **the State Treasurer of the enrollment or reenrollment.**

17 **(b) The State Treasurer shall ensure that an account is established for each enrolled**
18 **student as described in section 19 of this 2015 Act. The State Treasurer shall notify the de-**
19 **partment after the State Treasurer:**

20 **(A) Verifies that an account already was established for the enrolled student if the en-**
21 **rolled student has participated in the program in a previous year; or**

22 **(B) Establishes an account for a enrolled student who does not already have an estab-**
23 **lished account.**

24 **(c) Upon receiving a notice as provided by paragraph (b) of this subsection, the depart-**
25 **ment shall, for each student enrolled:**

26 **(A) Transfer to an account established under section 19 of this 2015 Act an amount that**
27 **equals 90 percent of the statewide average distribution.**

28 **(B) Transfer to the school district in which the student is a resident an amount that**
29 **equals five percent of the statewide average distribution.**

30 **(C) Transfer to the Department of Education Empowerment Account established by sec-**
31 **tion 20 of this 2015 Act an amount that equals a percentage of the statewide average dis-**
32 **tribution that is specified by the State Board of Education by rule and that may not exceed**
33 **four percent.**

34 **(D) Transfer to the Treasurer Empowerment Account established by section 21 of this**
35 **2015 Act an amount that equals one percent of the statewide average distribution.**

36 **(6) A school or any other provider of services purchased pursuant to the program may**
37 **not share, refund or rebate any moneys received through the program to the parent or en-**
38 **rolled student in any manner.**

39 **(7) The State Board of Education may adopt any rules necessary for the implementation**
40 **of this section.**

41 **SECTION 19. (1) For each enrolled student in the Oregon Empowerment Scholarship**
42 **Program, the State Treasurer shall ensure that an individual account is established. The**
43 **parent of the enrolled student has the right to withdraw funds from the account only for the**
44 **benefit of the enrolled student and only for qualified expenses.**

45 **(2) Separate records and reports are required for each account established as provided**

1 by this section. The State Treasurer shall ensure that, no less frequently than annually, a
2 report on the account is made available to the parent.

3 (3) The State Treasurer may contract with a financial institution to manage accounts
4 established as provided by this section with the supervision of the State Treasurer.

5 (4) Moneys in an account established as provided by this section:

6 (a) May not be assigned, pledged or otherwise used to secure or obtain a loan or other
7 advancement.

8 (b) Are exempt from garnishment and may not be subject to execution, attachment or
9 any other process or to the operation of any bankruptcy or insolvency law.

10 (c) Are not considered income for tax purposes.

11 (5) For the purpose of ensuring that moneys in an individual account are used only for
12 qualified expenses, the Department of Education shall:

13 (a) Ensure that an annual audit is made of each account; and

14 (b) Establish a toll-free telephone line that is available to members of the public to
15 anonymously report any fraudulent use of moneys from an account.

16 (6) A parent, an enrolled student or a provider of services purchased pursuant to the
17 program may be disqualified from program participation if the person is found to have com-
18 mitted an intentional program violation consisting of any misrepresentation or other act that
19 materially violates a law or rule governing the program. The department may remove any
20 parent or enrolled student from eligibility for enrollment in the program and shall notify the
21 State Treasurer. A parent may appeal the department's decision pursuant to the contested
22 case process.

23 (7) Individual account information, including names, addresses, telephone numbers and
24 personal identification information, is confidential and must be maintained as confidential
25 unless the person who provides the information, or is the subject of the information, ex-
26 pressly agrees in writing that the information may be disclosed.

27 (8) An enrolled student's account shall be closed and any remaining funds shall be de-
28 posited in the State School Fund upon the later of:

29 (a) The enrolled student's graduation from a post-secondary institution of education;

30 (b) A period of six consecutive years after the student has enrolled in a post-secondary
31 institution of education;

32 (c) A period of four consecutive years after high school completion in which the student
33 has not enrolled in a post-secondary institution of education; or

34 (d) A period of four years after the student no longer meets the qualifications described
35 in section 18 (2) of this 2015 Act and has not enrolled in a post-secondary institution of edu-
36 cation.

37 **SECTION 20.** (1) The Department of Education Empowerment Account is established in
38 the State Treasury, separate and distinct from the General Fund. Interest earned by the
39 account shall be credited to the account. All moneys credited to the account are contin-
40 uously appropriated to the Department of Education for the payment of expenses of the de-
41 partment under sections 17 to 22 of this 2015 Act.

42 (2) The Department of Education Empowerment Account consists of:

43 (a) Moneys transferred as provided by section 18 (5)(c)(C) of this 2015 Act;

44 (b) Moneys appropriated to the account by the Legislative Assembly; and

45 (c) Any other moneys from state or federal sources.

1 **SECTION 21.** (1) The Treasurer Empowerment Account is established in the State
2 Treasury, separate and distinct from the General Fund. Interest earned by the account shall
3 be credited to the account. All moneys credited to the account are continuously appropriated
4 to the State Treasurer for the payment of expenses of the State Treasurer under sections
5 17 to 22 of this 2015 Act.

6 (2) The Treasurer Empowerment Account consists of:

7 (a) Moneys transferred as provided by section 18 (5)(c)(D) of this 2015 Act;

8 (b) Moneys appropriated to the account by the Legislative Assembly; and

9 (c) Any other moneys from state or federal sources.

10 **SECTION 22.** (1) As used in this section, “participating school” means a school described
11 in ORS 339.030 (1)(a) that provides instruction to an enrolled student.

12 (2) Nothing in sections 17 to 22 of this 2015 Act:

13 (a) Permits a state or federal government agency to exercise control or supervision over
14 any participating school, private teacher, parent or legal guardian.

15 (b) Makes a participating school, private teacher, parent or legal guardian an agent of
16 the state or federal government.

17 (c)(A) Requires a participating school to change the creed with which the school is affil-
18 iated, or to change its practices, admission policy or curriculum, in order to accept enrolled
19 students who pay tuition or fees as provided by sections 17 to 22 of this 2015 Act.

20 (B) Requires a private teacher to change the teacher’s creed, practices, or curriculum
21 in order to accept enrolled students who pay tuition or fees as provided by sections 17 to 22
22 of this 2015 Act.

23 (C) Requires a parent or legal guardian to change the parent’s or guardian’s creed,
24 practices, or curriculum.

25 (3) In any legal proceeding challenging the application of sections 17 to 22 of this 2015
26 Act to a participating school, private teacher, parent or legal guardian, the state bears the
27 burden of establishing that the law or rule is necessary and does not impose any undue
28 burden on a participating school, private teacher, parent or legal guardian.

29 **SECTION 23.** (1) Sections 17 to 22 of this 2015 Act become operative January 1, 2016.

30 (2) The State Board of Education, Department of Education and State Treasurer may
31 take any action before the operative date specified in subsection (1) of this section to ensure
32 that students first be allowed to participate in the Oregon Empowerment Scholarship Pro-
33 gram during the 2016-2017 school year.

34 **SECTION 24.** Section 25 of this 2015 Act is added to and made a part of ORS chapter 327.

35 **SECTION 25.** (1) The Oregon Empowerment Scholarship Account is established within
36 the State School Fund.

37 (2) The account shall consist of any moneys transferred as provided by ORS 327.008 and
38 any other state or federal moneys available for the purposes of the Oregon Empowerment
39 Scholarship Program.

40 (3) Moneys in the account are continuously appropriated to the Department of Education
41 for the purpose of making transfers under section 18 (5)(c) of this 2015 Act.

42 (4) If the amount available in the account is not adequate to meet costs, the Department
43 of Education shall submit a revised budget to the Legislative Assembly or, if the Legislative
44 Assembly is not in session, to the Emergency Board.

45 **SECTION 26.** ORS 327.008, as amended by section 6, chapter 81, Oregon Laws 2014, is amended

1 to read:

2 327.008. (1) There is established a State School Fund in the General Fund. The fund shall consist
3 of moneys appropriated by the Legislative Assembly and moneys transferred from the Education
4 Stability Fund. The State School Fund is continuously appropriated to the Department of Education
5 for the purposes of ORS 327.006 to 327.077, 327.095, 327.099, 327.101, 327.125, 327.137, 327.348,
6 336.575, 336.580, 336.635, 342.173, 343.243, 343.533 and 343.961 and sections 1 to 3, chapter 735,
7 Oregon Laws 2013, [and] section 2, chapter 81, Oregon Laws 2014, **and sections 17 to 22 of this**
8 **2015 Act.**

9 (2) There shall be apportioned from the State School Fund to each school district a State School
10 Fund grant, consisting of the positive amount equal to a general purpose grant and a facility grant
11 and a transportation grant and a high cost disabilities grant minus local revenue, computed as pro-
12 vided in ORS 327.011 and 327.013.

13 (3) There shall be apportioned from the State School Fund to each education service district a
14 State School Fund grant as calculated under ORS 327.019.

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

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

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

21 (7) The total amount of the State School Fund that is distributed as facility grants may not ex-
22 ceed \$20 million in any biennium. If the total amount to be distributed as facility grants exceeds this
23 limitation, the Department of Education shall prorate the amount of funds available for facility
24 grants among those school districts that qualified for a facility grant.

25 (8) Each fiscal year, the Department of Education shall transfer to the Pediatric Nursing Facil-
26 ity Account established in section 5, chapter 81, Oregon Laws 2014, the amount necessary to pay
27 the costs of educational services provided to students admitted to pediatric nursing facilities as
28 provided in section 2, chapter 81, Oregon Laws 2014.

29 (9) Each fiscal year, the Department of Education shall transfer the amount of \$18 million from
30 the State School Fund to the High Cost Disabilities Account established in ORS 327.348.

31 (10)(a) Each biennium, the Department of Education shall transfer \$33 million from the State
32 School Fund to the Network of Quality Teaching and Learning Fund established under ORS 342.953.

33 (b) For the purpose of making the transfer under this subsection:

34 (A) The total amount available for all distributions from the State School Fund shall be reduced
35 by \$5 million;

36 (B) The amount distributed to school districts from the State School Fund under this section and
37 ORS 327.013 shall be reduced by \$14 million; and

38 (C) The amount distributed to education service districts from the State School Fund under this
39 section and ORS 327.019 shall be reduced by \$14 million.

40 (c) For each biennium, the amounts identified in paragraph (b)(B) and (C) of this subsection shall
41 be adjusted by the same percentage by which the amount appropriated to the State School Fund for
42 that biennium is increased or decreased compared to the preceding biennium, as determined by the
43 Department of Education after consultation with the Legislative Fiscal Officer.

44 (11) Each fiscal year, the Department of Education may expend up to \$550,000 from the State
45 School Fund for the contract described in ORS 329.488. The amount distributed to education service

1 districts from the State School Fund under this section and ORS 327.019 shall be reduced by the
2 amount expended by the department under this subsection.

3 (12) Each biennium, the Department of Education may expend up to \$350,000 from the State
4 School Fund to provide administration of and support for the development of talented and gifted
5 education under ORS 343.404.

6 (13) Each biennium, the Department of Education may expend up to \$150,000 from the State
7 School Fund for the administration of a program to increase the number of speech-language
8 pathologists and speech-language pathology assistants under ORS 348.394 to 348.406.

9 (14) Each fiscal year, the Department of Education shall transfer the amount of \$2.5 million from
10 the State School Fund to the Small School District Supplement Fund established in section 3, chap-
11 ter 735, Oregon Laws 2013.

12 **(15) Each fiscal year, the Department of Education shall transfer to the Oregon**
13 **Empowerment Scholarship Account established in section 25 of this 2015 Act the amount**
14 **necessary to make the transfers required by section 18 (5)(c) of this 2015 Act.**

15 **SECTION 27.** ORS 327.008, as amended by section 7, chapter 735, Oregon Laws 2013, and sec-
16 tion 7, chapter 81, Oregon Laws 2014, is amended to read:

17 327.008. (1) There is established a State School Fund in the General Fund. The fund shall consist
18 of moneys appropriated by the Legislative Assembly and moneys transferred from the Education
19 Stability Fund. The State School Fund is continuously appropriated to the Department of Education
20 for the purposes of ORS 327.006 to 327.077, 327.095, 327.099, 327.101, 327.125, 327.137, 327.348,
21 336.575, 336.580, 336.635, 342.173, 343.243, 343.533 and 343.961 and section 2, chapter 81, Oregon
22 Laws 2014, **and sections 17 to 22 of this 2015 Act.**

23 (2) There shall be apportioned from the State School Fund to each school district a State School
24 Fund grant, consisting of the positive amount equal to a general purpose grant and a facility grant
25 and a transportation grant and a high cost disabilities grant minus local revenue, computed as pro-
26 vided in ORS 327.011 and 327.013.

27 (3) There shall be apportioned from the State School Fund to each education service district a
28 State School Fund grant as calculated under ORS 327.019.

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

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

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

35 (7) The total amount of the State School Fund that is distributed as facility grants may not ex-
36 ceed \$20 million in any biennium. If the total amount to be distributed as facility grants exceeds this
37 limitation, the Department of Education shall prorate the amount of funds available for facility
38 grants among those school districts that qualified for a facility grant.

39 (8) Each fiscal year, the Department of Education shall transfer to the Pediatric Nursing Facil-
40 ity Account established in section 5, chapter 81, Oregon Laws 2014, the amount necessary to pay
41 the costs of educational services provided to students admitted to pediatric nursing facilities as
42 provided in section 2, chapter 81, Oregon Laws 2014.

43 (9) Each fiscal year, the Department of Education shall transfer the amount of \$18 million from
44 the State School Fund to the High Cost Disabilities Account established in ORS 327.348.

45 (10)(a) Each biennium, the Department of Education shall transfer \$33 million from the State

1 School Fund to the Network of Quality Teaching and Learning Fund established under ORS 342.953.

2 (b) For the purpose of making the transfer under this subsection:

3 (A) The total amount available for all distributions from the State School Fund shall be reduced
4 by \$5 million;

5 (B) The amount distributed to school districts from the State School Fund under this section and
6 ORS 327.013 shall be reduced by \$14 million; and

7 (C) The amount distributed to education service districts from the State School Fund under this
8 section and ORS 327.019 shall be reduced by \$14 million.

9 (c) For each biennium, the amounts identified in paragraph (b)(B) and (C) of this subsection shall
10 be adjusted by the same percentage by which the amount appropriated to the State School Fund for
11 that biennium is increased or decreased compared to the preceding biennium, as determined by the
12 Department of Education after consultation with the Legislative Fiscal Officer.

13 (11) Each fiscal year, the Department of Education may expend up to \$550,000 from the State
14 School Fund for the contract described in ORS 329.488. The amount distributed to education service
15 districts from the State School Fund under this section and ORS 327.019 shall be reduced by the
16 amount expended by the department under this subsection.

17 (12) Each biennium, the Department of Education may expend up to \$350,000 from the State
18 School Fund to provide administration of and support for the development of talented and gifted
19 education under ORS 343.404.

20 (13) Each biennium, the Department of Education may expend up to \$150,000 from the State
21 School Fund for the administration of a program to increase the number of speech-language
22 pathologists and speech-language pathology assistants under ORS 348.394 to 348.406.

23 **(14) Each fiscal year, the Department of Education shall transfer to the Oregon
24 Empowerment Scholarship Account established in section 25 of this 2015 Act the amount
25 necessary to make the transfers required by section 18 (5)(c) of this 2015 Act.**

26 **SECTION 28. (1) The amendments to ORS 327.008 by sections 26 and 27 of this 2015 Act
27 become operative July 1, 2016.**

28 **(2) The amendments to ORS 327.008 by sections 26 and 27 of this 2015 Act apply to State
29 School Fund distributions commencing with the 2016-2017 school year distributions.**

30 **SECTION 29. ORS 339.030 is amended to read:**

31 339.030. (1) In the following cases, children may not be required to attend public full-time
32 schools:

33 (a) Children being taught in a private or parochial school in the courses of study usually taught
34 in grades 1 through 12 in the public schools and in attendance for a period equivalent to that re-
35 quired of children attending public schools in the 1994-1995 school year.

36 (b) Children proving to the satisfaction of the district school board that they have acquired
37 equivalent knowledge to that acquired in the courses of study taught in grades 1 through 12 in the
38 public schools.

39 (c) Children who have received a high school diploma.

40 (d) Children being taught for a period equivalent to that required of children attending public
41 schools by a private teacher the courses of study usually taught in grades 1 through 12 in the public
42 school.

43 (e) Children being educated in the children's home by a parent or legal guardian.

44 **(f) Children who are considered to be taught by a parent or legal guardian because of
45 participation in the Oregon Empowerment Scholarship Program.**

1 [(f)] (g) Children excluded from attendance as provided by law.

2 (2) The State Board of Education and the Higher Education Coordinating Commission by rule
3 shall establish procedures whereby, on a semiannual basis, an exemption from compulsory attend-
4 ance may be granted to the parent or legal guardian of any child 16 or 17 years of age who is
5 lawfully employed full-time, lawfully employed part-time and enrolled in school, a community college
6 or an alternative education program as defined in ORS 336.615. An exemption also may be granted
7 to any child who is an emancipated minor or who has initiated the procedure for emancipation under
8 ORS 419B.550 to 419B.558.

9 **SECTION 30.** ORS 339.505 is amended to read:

10 339.505. (1) For purposes of the student accounting system required by ORS 339.515, the follow-
11 ing definitions shall be used:

12 (a) "Graduate" means an individual who has:

13 (A) Not reached 21 years of age or whose 21st birthday occurs during the current school year;

14 (B) Met all state requirements and local requirements for attendance, competence and units of
15 credit for high school; and

16 (C) Received one of the following:

17 (i) A high school diploma issued by a school district or a public charter school.

18 (ii) A high school diploma issued by an authorized community college.

19 (iii) A modified diploma issued by a school district or a public charter school.

20 (iv) An extended diploma issued by a school district or a public charter school.

21 (v) An alternative certificate issued by a school district or a public charter school.

22 (b) "School dropout" means an individual who:

23 (A) Has enrolled for the current school year, or was enrolled in the previous school year and
24 did not attend during the current school year;

25 (B) Is not a high school graduate;

26 (C) Has not received a General Educational Development (GED) certificate; and

27 (D) Has withdrawn from school.

28 (c) "School dropout" does not include a student described by at least one of the following:

29 (A) A student who has transferred to another educational system or institution that leads to
30 graduation and the school district has received a written request for the transfer of the student's
31 records or transcripts.

32 (B) A student who is deceased.

33 (C) A student who is participating in home instruction paid for by the district.

34 (D) A student who is being taught by a private teacher, parent or legal guardian pursuant to
35 ORS 339.030 (1)(d), [or] (e) **or** (f).

36 (E) A student who is participating in a Department of Education approved public or private
37 education program, an alternative education program as defined in ORS 336.615 or a hospital edu-
38 cation program, or is residing in a Department of Human Services or an Oregon Health Authority
39 facility.

40 (F) A student who is temporarily residing in a shelter care program certified by the Oregon
41 Youth Authority or in a juvenile detention facility.

42 (G) A student who is enrolled in a foreign exchange program.

43 (H) A student who is temporarily absent from school because of suspension, a family emergency,
44 or severe health or medical problems that prohibit the student from attending school.

45 (I) A student who has received a General Educational Development (GED) certificate.

1 (2) The State Board of Education shall prescribe by rule when an unexplained absence becomes
 2 withdrawal, when a student is considered enrolled in school, acceptable alternative education pro-
 3 grams under ORS 336.615 to 336.665 and the standards for excused absences for purposes of ORS
 4 339.065 for family emergencies and health and medical problems.

5 **SECTION 31.** (1) **Notwithstanding section 18 of this 2015 Act, the Department of Educa-**
 6 **tion may not enroll in the Oregon Empowerment Scholarship Program more than 0.5 percent**
 7 **of the students who reside in a school district unless the school district provides written**
 8 **consent for the department to enroll a greater percentage.**

9 (2) **Notwithstanding section 18 of this 2015 Act, if the number of applications from stu-**
 10 **dents who reside in the school district exceeds the limit designated under subsection (1) of**
 11 **this section, the department shall select students for enrollment through an equitable lottery**
 12 **selection process. The department shall give priority to students who enrolled in the Oregon**
 13 **Empowerment Scholarship Program the previous school year and to siblings of students who**
 14 **enrolled in the program the previous school year.**

15 (3) **The department shall provide timely notice to students who are not allowed to enroll**
 16 **in the program because of the limit designated under subsection (1) of this section. The no-**
 17 **tice must provide an explanation from the school district about why the school district chose**
 18 **not to request that the department enroll a greater percentage of students as allowed under**
 19 **subsection (1) of this section.**

20 **SECTION 32.** (1) **Section 31 of this 2015 Act is repealed on July 1, 2026.**

21 (2) **Section 31 of this 2015 Act applies only to applications submitted for any school year**
 22 **from the 2016-2017 school year through the 2026-2027 school year.**

23
 24 **CAPTIONS**

25
 26 **SECTION 33.** **The unit captions used in this 2015 Act are provided only for the conven-**
 27 **ience of the reader and do not become part of the statutory law of this state or express any**
 28 **legislative intent in the enactment of this 2015 Act.**

29
 30 **EFFECTIVE DATE**

31
 32 **SECTION 34.** **This 2015 Act takes effect on the 91st day after the date on which the 2015**
 33 **regular session of the Seventy-eighth Legislative Assembly adjourns sine die.**