

House Bill 2060

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Department of 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**.

Identifies economically disadvantaged students based on State Board of Education rule for purposes of Student Investment Account distributions.

Authorizes State Board of Education to establish targets for student mental and behavioral health needs.

Expands list of eligible applicants to receive distributions from Student Investment Account to include Oregon School for the Deaf, Youth Corrections Education Program, Juvenile Detention Education Program and public charter schools not sponsored by school district.

Removes certain students from statewide education plan for students who are black or African-American. Allows education service districts to receive grants under statewide education plans.

Expands definition of "eligible student" for purposes of School Breakfast Program. Modifies school reimbursement rates for purposes of schools that provide free or reduced price meals under National School Lunch Program or School Breakfast Program.

Eliminates civil action for disclosure of certain education records.

Declares emergency, effective July 1, 2021.

A BILL FOR AN ACT

1
2 Relating to education; creating new provisions; amending ORS 327.180, 327.185, 327.190, 327.195,
3 327.235, 327.535, 327.545, 329.841 and 329.845; repealing ORS 30.864; and declaring an emergency.

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

5 **SECTION 1.** ORS 327.180 is amended to read:

6 327.180. (1) In addition to those moneys distributed through the State School Fund, the Depart-
7 ment of Education shall award grants from the Student Investment Account. Grants shall be dis-
8 tributed as provided under ORS 327.195.

9 (2) The purposes of grants distributed under ORS 327.195 shall be to:

10 (a) Meet students' mental or behavioral health needs; and

11 (b) Increase academic achievement for students, including reducing academic disparities for:

12 (A) Economically disadvantaged students, as determined based on [*eligibility for free or reduced*
13 *price lunches under the United States Department of Agriculture's current Income Eligibility Guide-*
14 *lines*] **rules adopted by the State Board of Education;**

15 (B) Students from racial or ethnic groups that have historically experienced academic dispari-
16 ties, as determined under rules adopted by the State Board of Education;

17 (C) Students with disabilities;

18 (D) Students who are English language learners;

19 (E) Students who are foster children, as defined in ORS 30.297;

20 (F) Students who are homeless, as determined under rules adopted by the State Board of Edu-
21 cation; and

22 (G) Any other student groups that have historically experienced academic disparities, as deter-
23 mined by the State Board of Education by rule.

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 (3) Grant moneys received under ORS 327.195 may be used by a grant recipient only for:
- 2 (a) Increasing instructional time, which may include:
- 3 (A) More hours or days of instructional time;
- 4 (B) Summer programs;
- 5 (C) Before-school or after-school programs; or
- 6 (D) Technological investments that minimize class time used for assessments administered to
- 7 students.
- 8 (b) Addressing students' health or safety needs, which may include:
- 9 (A) Social-emotional learning and development;
- 10 (B) Student mental and behavioral health;
- 11 (C) Improvements to teaching and learning practices or organizational structures that lead to
- 12 better interpersonal relationships at the school;
- 13 (D) Student health and wellness;
- 14 (E) Trauma-informed practices;
- 15 (F) School health professionals and assistants; or
- 16 (G) Facility improvements directly related to improving student health or safety.
- 17 (c) Reducing class sizes, which may include increasing the use of instructional assistants, by
- 18 using evidence-based criteria to ensure appropriate student-teacher ratios or staff caseloads.
- 19 (d) Expanding availability of and student participation in well-rounded learning experiences,
- 20 which may include:
- 21 (A) Developmentally appropriate and culturally responsive early literacy practices and programs
- 22 in prekindergarten through third grade;
- 23 (B) Culturally responsive practices and programs in grades six through eight, including learning,
- 24 counseling and student support that is connected to colleges and careers;
- 25 (C) Broadened curricular options at all grade levels, including access to:
- 26 (i) Art, music and physical education classes;
- 27 (ii) Science, technology, engineering and mathematics education;
- 28 (iii) Career and technical education, including career and technical student organization pro-
- 29 grams;
- 30 (iv) Electives that are engaging to students;
- 31 (v) Accelerated college credit programs, including dual credit programs, International
- 32 Baccalaureate programs and advanced placement programs;
- 33 (vi) Dropout prevention programs and transition supports;
- 34 (vii) Life skills classes; or
- 35 (viii) Talented and gifted programs; or
- 36 (D) Access to licensed educators with a library media endorsement.
- 37 **SECTION 2.** ORS 327.190 is amended to read:
- 38 327.190. (1) As used in this section:
- 39 (a) "Disaggregated" means separated based on the student groups identified in ORS 327.180
- 40 (2)(b).
- 41 (b) "Five-year completion rate" means the percentage of students who received a high school
- 42 diploma, a modified diploma or an extended diploma or who received a certificate for passing an
- 43 approved high school equivalency test such as the General Educational Development test (GED)
- 44 within five years of the student beginning the ninth grade.
- 45 (c) "High school diploma" means a diploma that is awarded to a student upon satisfaction of the

1 requirements prescribed by ORS 329.451 (2).

2 (d) “Ninth-grade on-track rates” means the percentage of students who, at the end of the summer
 3 following the year the students began ninth grade, completed one quarter of the credits required for
 4 high school graduation.

5 (e) “On-time graduation rate” means the percentage of students who received a high school di-
 6 ploma or a modified diploma within four years of the students beginning the ninth grade.

7 (f) “Regular attendance rates” means the percentage of students who are absent, as determined
 8 by Department of Education policy, for less than 10 percent of the school days for which the stu-
 9 dents are enrolled.

10 (g) “Third-grade reading proficiency rate” means the percentage of students in the third grade
 11 who are determined to be proficient or above in English language arts, as determined under rules
 12 adopted by the State Board of Education.

13 (2) The Department of Education shall review all applications for grants from the Student In-
 14 vestment Account that comply with the requirements prescribed by ORS 327.185.

15 (3) If an application complies with the requirements of ORS 327.185, the department shall col-
 16 laborate with the grant recipient to develop applicable longitudinal performance growth targets. The
 17 longitudinal performance growth targets must:

- 18 (a) Be based on data available for longitudinal analysis;
- 19 (b) Be developed based on guidance established by the department; and
- 20 (c) Use the following applicable metrics:
 - 21 (A) On-time graduation rates and five-year completion rates, including:
 - 22 (i) The overall on-time graduation rate and five-year completion rate.
 - 23 (ii) Gaps in disaggregated on-time graduation rates and five-year completion rates.
 - 24 (B) Ninth-grade on-track rates, including:
 - 25 (i) The overall ninth-grade on-track rate.
 - 26 (ii) Gaps in disaggregated ninth-grade on-track rates.
 - 27 (C) Third-grade reading proficiency rates, including:
 - 28 (i) The overall third-grade reading proficiency rate.
 - 29 (ii) Gaps in disaggregated third-grade reading proficiency rates.
 - 30 (D) Regular attendance rates, including:
 - 31 (i) The overall regular attendance rate.
 - 32 (ii) Gaps in disaggregated regular attendance rates.

33 (4) In addition to the metrics identified in subsection (3) of this section, [*other local metrics*] **the**
 34 **following** may be used to develop applicable performance growth targets[.]:

- 35 **(a) Local metrics; and**
- 36 **(b) Targets related to student mental and behavioral health needs, as established by the**
 37 **State Board of Education by rule.**

38 (5) When developing performance growth targets, the department and grant recipient shall:

- 39 (a) Review disaggregated student data;
- 40 (b) Apply a process adopted by the department for the purpose of strategically developing equi-
 41 table policies and programs; and
- 42 (c) Identify which student groups identified in ORS 327.180 (2)(b) are most at risk of not meeting
 43 performance growth targets.

44 (6)(a) After developing performance growth targets, the department and grant recipient shall
 45 enter into a grant agreement. The grant agreement must include applicable performance growth

1 targets for measuring the academic growth of the students of the grant recipient.

2 (b) A grant agreement is not valid until approved by the governing body of the grant recipient
3 at an open meeting following:

4 (A) Provision of the plan at the main office of the grant recipient and on the grant recipient's
5 website;

6 (B) Oral presentation of the plan by an administrator of the grant recipient to the governing
7 body of the grant recipient; and

8 (C) Opportunity for the public to comment on the plan at an open meeting.

9 (7) Any agreements between a public charter school and a grant recipient that is a school dis-
10 trict shall become part of the grant agreement.

11 **SECTION 3.** ORS 327.235 is amended to read:

12 327.235. The Department of Education shall make a report to the committees of the Legislative
13 Assembly related to education no later than February 1 of each year regarding the implementation
14 of ORS 327.175 to 327.235. The report must include an annual performance review of each eligible
15 applicant, as defined in ORS 327.185. The report must:

16 (1) Identify whether the eligible applicant received a grant under ORS 327.175 to 327.235.

17 (2) For grant recipients, include a comparison of the grant recipient's progress toward meeting
18 performance growth targets compared with the actual performance growth targets established by the
19 department for the following:

20 (a) On-time graduation rates and five-year completion rates, including the overall rate and dis-
21 aggregated student group rates;

22 (b) Ninth-grade on-track rates, including the overall rate and disaggregated student group rates;

23 (c) Third-grade reading proficiency rates, including the overall rate and disaggregated student
24 group rates;

25 (d) Regular attendance rates, including the overall rate and disaggregated student group rates;
26 and

27 (e) Any optional local metrics **or any targets related to student mental and behavioral**
28 **health needs established by the State Board of Education.**

29 **SECTION 4.** ORS 327.185 is amended to read:

30 327.185. (1) As used in this section, "eligible applicant" means **any of the following entities:**

31 (a) Common school districts and union high school districts[; *and*].

32 **(b) The Oregon School for the Deaf.**

33 **(c) The Youth Corrections Education Program or the Juvenile Detention Education Pro-**
34 **gram.**

35 [(b)] **(d)** Public charter schools that are not virtual public charter schools, as defined in ORS
36 338.005, and that have a student population of which:

37 (A) At least 35 percent of the student population is composed of students from the following
38 student groups:

39 (i) Economically disadvantaged, as described in ORS 327.180 (2)(b)(A);

40 (ii) Racial or ethnic groups that have historically experienced academic disparities, as described
41 in ORS 327.180 (2)(b)(B); or

42 (iii) Students with disabilities, as described in ORS 327.180 (2)(b)(C); and

43 (B) The percentage of the students from student groups identified under subparagraph (A) of this
44 paragraph is greater than:

45 (i) The percentage of all students in the school district who are economically disadvantaged, if

1 eligibility is determined based on the percentage of students who are economically disadvantaged;

2 (ii) The percentage of all students in the school district who are from racial or ethnic groups
 3 that have historically experienced academic disparities, if eligibility is determined based on the
 4 percentage of students who are from those racial or ethnic groups; or

5 (iii) The percentage of all students in the school district who are disabled, if eligibility is de-
 6 termined based on the percentage of students who are disabled.

7 (2)(a) Eligible applicants may apply for a grant from the Student Investment Account to receive
 8 a distribution under ORS 327.190.

9 (b) Notwithstanding ORS 338.155 (9), a public charter school that is not an eligible applicant
 10 may not apply for a grant under this section.

11 (3) Prior to preparing a grant application, an eligible applicant must:

12 (a) If the eligible applicant is a school district, determine whether the school district will allow
 13 public charter schools sponsored by, **or located within**, the school district to participate in the
 14 grant application and the grant agreement.

15 (b) If the eligible applicant is a public charter school, determine whether the public charter
 16 school intends to apply for a grant and provide notice of that intent to the school district [*that is*
 17 *the sponsor of*] **in which** the public charter school **is located** and to the Department of Education.

18 (4)(a) If an eligible applicant is a school district and decides to include public charter schools
 19 in the grant application and grant agreement, the school district must provide all public charter
 20 schools sponsored by, **or located within**, the school district the opportunity to participate in the
 21 grant application and grant agreement.

22 (b)(A) A public charter school is not required to participate in the grant application and grant
 23 agreement of a school district.

24 (B) If a public charter school does not participate in a grant application and grant agreement
 25 under this subsection:

26 (i) The ADMw of the public charter school may not be used in the calculation of the school
 27 district ADMw for grants distributed under ORS 327.195; and

28 (ii) The public charter school is not entitled to any grant moneys distributed under ORS 327.195.

29 (C) If a public charter school participates in a grant application and grant agreement under this
 30 subsection:

31 (i) The public charter school and school district shall enter into an agreement for the distrib-
 32 ution of moneys or the provision of services, including any accountability measures required of the
 33 public charter school by the school district;

34 (ii) The ADMw of the public charter school shall be used in the calculation of the school district
 35 ADMw for grants distributed under ORS 327.195; and

36 (iii) The public charter school is entitled to any grant moneys or services provided for in the
 37 agreement entered into under this subparagraph.

38 (5)(a) For the purpose of preparing a grant application, an eligible applicant must determine:

39 (A) Which of the allowed uses identified in ORS 327.180 (3) the eligible applicant will fund with
 40 grant moneys; and

41 (B) Which of the eligible uses identified under subparagraph (A) of this paragraph the eligible
 42 applicant will designate to meeting student mental and behavioral health needs.

43 (b) An eligible applicant shall make the determinations required under paragraph (a) of this
 44 subsection by:

45 (A) Engaging in strategic planning; and

1 (B) Considering the recommendations of the Quality Education Commission established under
 2 ORS 327.500.

3 (6)(a) The strategic planning required under subsection (5) of this section must include:

4 (A) A completed needs assessment, as described in ORS 329.095;

5 (B) An analysis of the potential academic impact, both for the students of the eligible applicant
 6 and for student groups identified in ORS 327.180 (2)(b), from the allowed uses that would be funded
 7 by grant moneys; and

8 (C) The creation of budgets for the allowed uses that would be funded by grant moneys.

9 (b) The strategic planning required under subsection (5) of this section must take into consid-
 10 eration:

11 (A) Input from the community of the eligible applicant, including school employees, students
 12 from student groups identified in ORS 327.180 (2)(b) and parents of those students; and

13 (B) Data collected by the eligible applicant to enable the eligible applicant to make equity-based
 14 decisions.

15 (7) Based on the strategic planning described in subsection (6) of this section, the eligible ap-
 16 plicant shall develop a four-year plan for the use of grant moneys. The plan must be updated every
 17 two years and must:

18 (a) Identify which allowed uses identified in ORS 327.180 (3) will be funded with grant moneys
 19 and which of those uses will be designated to meet student mental and behavioral health needs.

20 (b) Describe how the allowed uses identified under paragraph (a) of this subsection will be used
 21 to:

22 (A) Meet students' mental and behavioral health needs;

23 (B) Increase academic achievement for students of the eligible applicant; and

24 (C) Reduce academic disparities for student groups identified in ORS 327.180 (2)(b) who are
 25 served by the eligible applicant, and identify which of those student groups will benefit from the
 26 allowed uses that are being funded with grant moneys.

27 (c) Include the budgets for the allowed uses to be funded with grant moneys.

28 (d) Be approved by the governing body of the eligible applicant at an open meeting, following:

29 (A) Provision of the plan at the main office of the eligible applicant and on the eligible
 30 applicant's website;

31 (B) Oral presentation of the plan by an administrator of the eligible applicant to the governing
 32 body of the eligible applicant; and

33 (C) Opportunity for the public to comment on the plan at an open meeting.

34 (e) Be a part of the local district continuous improvement plan described in ORS 329.095, if the
 35 eligible applicant is a school district.

36 (8) To apply for a grant, an eligible applicant must submit an application every two years in a
 37 format and according to timelines prescribed by the Department of Education. The application must
 38 include:

39 (a) A completed needs assessment, as described in ORS 329.095;

40 (b) The plan developed under subsection (7) of this section; and

41 (c) Budget estimates for each of the allowed uses identified in the plan developed under sub-
 42 section (7) of this section that will be funded by grant moneys.

43 **SECTION 5.** ORS 327.195 is amended to read:

44 327.195. (1)(a) Except as provided by paragraph (d) of this subsection, the amount of a grant
 45 awarded from the Student Investment Account = the grant recipient's ADMw × (the total amount

1 available for distribution as grants in each biennium ÷ the total ADMw of all grant recipients).

2 (b) For purposes of this subsection and except as provided by paragraph (c) of this subsection,
3 ADMw equals:

4 **(A) For school districts,** the ADMw as calculated under ORS 327.013, except that the addi-
5 tional amount allowed for students who are in poverty families, as determined under ORS 327.013
6 (1)(c)(A)(v)(I), shall be 0.5.

7 **(B) For the Oregon School for the Deaf, the average daily membership multiplied by 2.0,**
8 **as calculated for the current school year and the previous school year and using the greater**
9 **amount.**

10 **(C) For an educational program under the Youth Corrections Education Program or the**
11 **Juvenile Detention Education Program, as provided in ORS 327.026.**

12 (c) When calculating ADMw **for a school district,** the Department of Education shall remove
13 from *[a school district's]* **the** calculation any amounts that are attributable to:

14 (A) A virtual public charter school, as defined in ORS 338.005;

15 (B) A public charter school that provided notice of the public charter school's intent to apply
16 for a grant as an eligible applicant; and

17 (C) A public charter school sponsored by, **or located within,** the school district that did not
18 participate in the grant application or grant agreement.

19 (d) The amount of a grant distributed under this section may be adjusted by the department to
20 ensure that:

21 (A) A grant recipient does not receive any moneys for uses that are not allowed uses under ORS
22 327.180 (3).

23 (B) A school district with an ADMw of 50 or less receives a minimum grant amount.

24 (2) The State Board of Education shall adopt any rules necessary for the distribution of grants
25 under this section, including establishing:

26 (a) The minimum grant amounts under subsection (1)(d) of this section; and

27 (b) Any percentages and timelines for installment payments and adjustments of those installment
28 payments.

29 (3) A grant recipient shall deposit the grant moneys the grant recipient receives under this
30 section into a separate account and shall apply amounts in that account as provided by the grant
31 agreement.

32 **SECTION 6.** ORS 329.841 is amended to read:

33 329.841. (1) For the purposes of this section, "plan student" means a student enrolled in early
34 childhood through post-secondary education who:

35 (a) Is black or African-American *[or a member of a student group that is not covered under an*
36 *existing culturally specific statewide education plan]*; and

37 (b) Has experienced disproportionate results in education due to historical practices, as identi-
38 fied by the State Board of Education by rule.

39 (2)(a) The Department of Education shall develop and implement a statewide education plan for
40 plan students.

41 (b) The department shall form an advisory group consisting of community members, education
42 stakeholders and representatives of the Early Learning Division, the Youth Development Division
43 and the Higher Education Coordinating Commission to advise the department regarding:

44 (A) Development and implementation of the plan;

45 (B) Eligibility criteria, applicant selection process and expectations for recipients of grant

1 awards described in this section; and

2 (C) Adoption of rules by the State Board of Education for the implementation of the plan.

3 (3) The plan developed under this section shall address:

4 (a) The disparities experienced by plan students in every indicator of academic success, as doc-
5 umented by the department's statewide report card;

6 (b) The historical practices leading to disproportionate outcomes for plan students; and

7 (c) The educational needs of plan students from early childhood through post-secondary educa-
8 tion by examining culturally appropriate best practices in this state and across the nation.

9 (4) The plan developed and implemented under this section must provide strategies to:

10 (a) Address the disproportionate rate of disciplinary incidents for plan students compared to all
11 students in the education system;

12 (b) Increase parental engagement in the education of plan students;

13 (c) Increase the engagement of plan students in educational activities before and after regular
14 school hours;

15 (d) Increase early childhood and kindergarten readiness for plan students;

16 (e) Improve literacy and numeracy levels among plan students between kindergarten and grade
17 three;

18 (f) Support plan student transitions to middle school and through the middle and high school
19 grades to maintain and improve academic performance;

20 (g) Support culturally responsive pedagogy and practices from early childhood through post-
21 secondary education;

22 (h) Support the development of culturally responsive curricula from early childhood through
23 post-secondary education;

24 (i) Increase attendance of plan students in community colleges and professional certification
25 programs; and

26 (j) Increase attendance of plan students in four-year post-secondary institutions of education.

27 (5) The department shall submit a biennial report concerning the progress of the plan developed
28 and implemented under this section at each even-numbered year regular session of the Legislative
29 Assembly in the manner provided by ORS 192.245 to an interim committee of the Legislative As-
30 sembly related to education.

31 (6) The department, in consultation with the advisory group, shall award grants to Early
32 Learning Hubs, providers of early learning services, school districts, **education service districts**,
33 post-secondary institutions of education and community-based organizations to implement the strat-
34 egies developed in the plan developed and implemented under this section.

35 (7) To qualify for and receive a grant described in this section, an applicant must identify and
36 demonstrate that the applicant meets the eligibility criteria established by the State Board of Edu-
37 cation by rule.

38 **SECTION 7.** ORS 329.845 is amended to read:

39 329.845. (1) As used in this section, "plan student" means a student enrolled in early childhood
40 through post-secondary education who:

41 (a) Is Latino or Hispanic, including individuals of Mexican, Cuban, Puerto Rican, South Ameri-
42 can, Central American or Spanish descent; and

43 (b) Has experienced disproportionate results in education due to historical practices, as identi-
44 fied by the State Board of Education by rule.

45 (2)(a) The Department of Education shall develop and implement a statewide education plan for

1 plan students.

2 (b) The department shall form an advisory group consisting of individuals representing:

3 (A) Urban and rural communities;

4 (B) Indigenous and immigrant populations;

5 (C) English language learners;

6 (D) Individuals with disabilities;

7 (E) Parents and students;

8 (F) Youth who are lesbian, gay, bisexual, transgender, queer or another minority gender or
9 sexual orientation;

10 (G) Community-based organizations serving Latino or Hispanic youth and families; and

11 (H) Education stakeholders, including representatives of the Early Learning Division, the Youth
12 Development Division and the Higher Education Coordinating Commission.

13 (c) The advisory group formed as provided in paragraph (b) of this subsection shall advise the
14 department regarding:

15 (A) Development and implementation of the plan;

16 (B) Eligibility criteria, applicant selection processes and expectations for recipients of grant
17 awards described in this section; and

18 (C) Adoption of rules by the State Board of Education for the implementation of the plan.

19 (3) The plan developed under this section must address:

20 (a) The disparities experienced by plan students in every indicator of academic success, as doc-
21 umented by the department's statewide report card and other relevant reports related to plan stu-
22 dents;

23 (b) The historical practices leading to disproportionate outcomes for plan students; and

24 (c) The educational needs of plan students from early childhood through post-secondary educa-
25 tion as determined by examining culturally appropriate best practices in this state and across the
26 nation.

27 (4) The plan developed and implemented under this section must provide strategies to:

28 (a) Address the disproportionate rate of disciplinary incidents involving plan students compared
29 to all students in the education system;

30 (b) Increase parental engagement in the education of plan students;

31 (c) Increase the engagement of plan students in educational activities before and after regular
32 school hours;

33 (d) Increase early childhood education and kindergarten readiness for plan students;

34 (e) Improve literacy and numeracy levels among plan students between kindergarten and grade
35 three;

36 (f) Support plan student transitions to middle school and through the middle school and high
37 school grades to maintain and improve academic performance;

38 (g) Support culturally responsive pedagogy and practices from early childhood through post-
39 secondary education;

40 (h) Support the development of culturally responsive curricula from early childhood through
41 post-secondary education;

42 (i) Increase attendance of plan students in community colleges and professional certification
43 programs; and

44 (j) Increase attendance of plan students in four-year post-secondary institutions of education.

45 (5) The department shall submit a biennial report concerning the progress of the plan developed

1 and implemented under this section to a committee of the Legislative Assembly related to education
2 at each even-numbered year regular session of the Legislative Assembly.

3 (6) The department, in consultation with the advisory group, shall award grants to Early
4 Learning Hubs, providers of early learning services, school districts, **education service districts**,
5 post-secondary institutions of education, **tribal governments** and community-based organizations to
6 implement the strategies provided in the plan developed and implemented under this section.

7 (7) To qualify for and receive a grant described in this section, an applicant must identify and
8 demonstrate that the applicant meets the eligibility criteria established by the State Board of Edu-
9 cation by rule.

10 **SECTION 8.** ORS 327.535 is amended to read:

11 327.535. (1) As used in this section, “eligible student” means a student who is eligible for free
12 or reduced price [*lunches*] **meals** under the United States Department of Agriculture’s [*current In-*
13 *come Eligibility Guidelines*] **National School Lunch Program or School Breakfast Program.**

14 (2) A school district may make breakfast accessible at any school site and shall make breakfast
15 accessible if required by this section.

16 (3) Subject to subsections (4) and (5) of this section, a school district that provides lunch at any
17 school site shall make breakfast accessible as part of a breakfast program if 25 percent or more of
18 the students at the school site are eligible students or the school site qualifies for assistance under
19 Chapter I of Title I of the federal Elementary and Secondary Education Act of 1965.

20 (4) A school district that makes breakfast accessible as provided under subsection (3) of this
21 section may apply to the Department of Education for a waiver for all or for particular grade levels
22 if the school district is financially unable to implement a breakfast program. The department may
23 grant a waiver to the school district for a period not to exceed two years, after which the school
24 district must reestablish its claim of financial hardship if the waiver is to be extended.

25 (5) If the per meal federal reimbursement for the breakfast program falls below the 1991 re-
26 imbursement levels, a school district may elect to discontinue the program until federal funding is
27 restored to those levels. No waiver is required for such election.

28 (6) A school district that makes breakfast accessible at any school site shall make breakfast
29 accessible at that school site at no charge to all eligible students. For each breakfast that a school
30 district provides free of charge to a student who is eligible for a reduced price lunch, the department
31 shall provide reimbursement to the school district for the actual amount that a student would have
32 been required to pay for the reduced price breakfast.

33 (7)(a) Except as provided by subsection (8) of this section, a school district that makes breakfast
34 accessible at a school site may choose to make breakfast accessible at that school site after the
35 beginning of the school day.

36 (b) Time spent by students consuming breakfast is considered instructional time when students
37 consume breakfast in the students’ classroom and instruction is being provided while students are
38 consuming breakfast. No more than 15 minutes may be considered instructional time when students
39 are consuming breakfast.

40 (8)(a) If 70 percent or more of the students at a school site are eligible students, the school
41 district must make breakfast accessible at that school site after the beginning of the school day.

42 (b) A school district that is required to make breakfast accessible as prescribed by paragraph
43 (a) of this subsection must ensure that breakfast is:

44 (A) Accessible to all students after the beginning of the school day, regardless of grade or ar-
45 rival time; and

1 (B) Provided free of charge to all students, regardless of whether a student is an eligible student.

2 (c) The department shall provide technical assistance to school districts to meet the require-
3 ments of this subsection. Technical assistance may include the development of breakfast delivery
4 models.

5 (d) Notwithstanding paragraph (a) of this subsection, if a school district can demonstrate that
6 70 percent or more of the eligible students at a school site regularly receive breakfast at the school
7 site without the school district complying with paragraph (a) of this subsection, the school district
8 is not required to comply with paragraph (a) of this subsection.

9 (9) The State Board of Education may adopt any rules necessary for the implementation of this
10 section.

11 **SECTION 9.** ORS 327.545 is amended to read:

12 327.545. (1) For school districts with schools that provide United States Department of Agricul-
13 ture reimbursable meals to students as described in subsections (2) and (3) of this section, the De-
14 partment of Education shall reimburse the school districts for costs incurred by the school districts
15 in providing the meals. The amounts of the reimbursements may not exceed the amounts prescribed
16 by subsections (2) and (3) of this section.

17 (2) For schools that offer reimbursable breakfast and lunch free of charge to all students of the
18 school based on the school's or school district's categorical eligibility to provide reimbursable
19 breakfast and lunch free of charge without consideration of individual eligibility for free or reduced
20 price meals, the amount of reimbursements provided under this section may not exceed the differ-
21 ence between:

22 (a) The reimbursement rate established by the United States Department of Agriculture for
23 reimbursable meals; and

24 (b) Any amounts otherwise reimbursed or paid by state, federal or other sources.

25 (3) For schools that are not eligible to offer reimbursable breakfast and lunch free of charge as
26 described in subsection (2) of this section but that provide reimbursable breakfast or lunch free of
27 charge to students from households with incomes that do not exceed 300 percent of the federal
28 poverty guidelines, the amount of reimbursements provided under this section may not exceed the
29 difference between:

30 *[(a) The actual amount that a student would have been required to pay for the breakfast or lunch,*
31 *taking into consideration if the student qualified for a free or reduced price lunch; and]*

32 **(a) The reimbursement rate established by the United States Department of Agriculture**
33 **for reimbursable meals; and**

34 (b) Any amounts otherwise reimbursed or paid by state, federal or other sources.

35 (4) The State Board of Education may adopt any rules necessary for making reimbursements
36 under this section.

37 **SECTION 10.** The amendments to ORS 327.545 by section 9 of this 2021 Act apply to costs
38 incurred on or after July 1, 2021.

39 **SECTION 11.** ORS 30.864 is repealed.

40 **SECTION 12.** The repeal of ORS 30.864 by section 11 of this 2021 Act does not affect any
41 civil action filed in a circuit court before the effective date of this 2021 Act.

42 **SECTION 13.** This 2021 Act being necessary for the immediate preservation of the public
43 peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect
44 on July 1, 2021.