

**A-Engrossed**  
**House Bill 2330**

Ordered by the House April 1  
Including House Amendments dated April 1

Sponsored by Representatives BONHAM, WRIGHT; Representatives NERON, OWENS, REARDON, RESCHKE, SMITH DB, SOLLMAN (at the request of Oregon Small Schools Association, Coalition of Oregon School Administrators and Oregon School Boards Association) (Pre-session filed.)

**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.

Makes permanent school district funding for foreign exchange students and small school district grants.

**Increases weighted average daily membership limit for purpose of distributions to small school districts.**

Declares emergency, effective on passage.

**A BILL FOR AN ACT**

1  
2 Relating to State School Fund distributions; amending ORS 327.006, 327.008, 327.019, 327.125, 327.137,  
3 339.129, 339.133 and 340.045 and section 1, chapter 735, Oregon Laws 2013; repealing sections  
4 19 and 20, chapter 735, Oregon Laws 2013, and section 4, chapter 21, Oregon Laws 2020 (first  
5 special session); and declaring an emergency.

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

7 **SECTION 1. Section 4, chapter 21, Oregon Laws 2020 (first special session), is repealed.**

8 **SECTION 2.** ORS 339.133, as amended by sections 2 and 3, chapter 21, Oregon Laws 2020 (first  
9 special session), is amended to read:

10 339.133. (1) As used in this section:

11 (a)(A) "Foster care" means substitute care for children placed by the Department of Human  
12 Services or a tribal child welfare agency away from their parents and for whom the department or  
13 agency has placement and care responsibility, including placements in foster family homes, foster  
14 homes of relatives, group homes, emergency shelters, residential facilities, child care institutions and  
15 preadoptive homes.

16 (B) "Foster care" does not mean care for children whose parent or guardian voluntarily placed  
17 the child outside the child's home with a public or private agency and for whom the child's parent  
18 or guardian retains legal guardianship.

19 (b)(A) "Person in parental relationship" means an adult who has physical custody of an indi-  
20 vidual or resides in the same household as the individual, interacts with the individual daily, pro-  
21 vides the individual with food, clothing, shelter and incidental necessities and provides the  
22 individual with necessary care, education and discipline.

23 (B) "Person in parental relationship" does not mean a person with a power of attorney or other  
24 written delegation of parental responsibilities if the person does not have other evidence of a par-  
25 ental relationship.

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

1 (c) "School district of origin" means the school district where an individual was a resident be-  
2 fore:

3 (A) The individual was placed into foster care; or

4 (B) The foster care placement of the individual changed.

5 (d) "School of origin" means the school that an individual attended before:

6 (A) The individual was placed into foster care; or

7 (B) The foster care placement of the individual changed.

8 (2)(a) Except as provided in subsections (3) to (5) of this section, individuals between the ages  
9 of 4 and 18 shall be considered resident for school purposes in the school district in which their  
10 parents, their guardians or persons in parental relationship to them reside.

11 (b) Nonemancipated individuals between the ages of 4 and 18 living outside the geographic area  
12 of the school district for such reasons as attending college, military service, hospital confinement  
13 or employment away from home shall be considered resident in the district in which their parents,  
14 their guardians or persons in parental relationship to them reside.

15 (c) Individuals living temporarily in a school district for the primary purpose of attending a  
16 district school may not be considered resident in the district in which they are living temporarily,  
17 but shall be considered resident in the district in which they, their parents, their guardians or per-  
18 sons in parental relationship to them reside.

19 (3) Individuals considered legally emancipated from their parents shall be considered resident  
20 in the district in which they actually reside, irrespective of the residence of their parents, their  
21 guardians or persons in parental relationship.

22 (4)(a) An individual who is between the ages of 4 and 21 and who is placed in foster care shall  
23 be considered a resident of:

24 (A) The school district of origin; or

25 (B) The school district where the individual resides due to placement by the Department of  
26 Human Services or a tribal child welfare agency if a juvenile court determines it is not in the best  
27 interest of the individual to continue attending the school of origin or any other school in the school  
28 district of origin, based on consideration of all factors relating to the individual's best interests.

29 (b) If a juvenile court makes a determination that it is not in the best interest of the individual  
30 to continue attending the school of origin, the individual shall be immediately enrolled in a new  
31 school, even if the individual is unable to produce records normally required for enrollment.

32 (c) Individuals who are residents of their school district of origin pursuant to paragraph (a)(A)  
33 of this subsection shall:

34 (A) Remain in the individual's school district of origin and, if applicable, the individual's school  
35 of origin for the duration of the individual's time in foster care; and

36 (B) Be provided, free of charge, transportation between the individual's home and the  
37 individual's school district of origin or, if applicable, the individual's school of origin.

38 (d) The Department of Education, the Department of Human Services, tribal child welfare  
39 agencies and school districts shall collaborate to ensure that the provisions of this subsection are  
40 implemented.

41 (5)(a) Except as provided in ORS 327.006 (6) and 335.090, an individual whose legal residence is  
42 not within the district but who attends school in the district is considered a resident in the district  
43 in which the individual attends school if the individual receives written consent from both of the  
44 affected district school boards as provided by policies adopted by the boards.

45 (b) An individual whose legal residence is not within the district but who attends school in the

1 district is considered a resident in the district in which the individual attends school if:

2 (A) The legal residence of the individual had been in the district in which the individual attends  
3 school before a boundary change was made to the district;

4 (B) The legal residence of the individual is no longer in the district in which the individual at-  
5 tends school because of the boundary change; and

6 (C) The individual has had the same legal residence and has continuously been enrolled in a  
7 school in the district since the boundary change.

8 **(6)(a) Individuals who are foreign exchange students and who are residing in Oregon in  
9 a dormitory operated by a school district are considered to be residents of the school district  
10 in which the dormitory is located.**

11 **(b) For the purpose of this subsection:**

12 **(A) An individual may not be considered to be a foreign exchange student for more than  
13 one school year.**

14 **(B) An individual may be considered to be a resident of a school district as provided by  
15 this subsection only if, for the 2010-2011 school year, the school district had foreign exchange  
16 students who would have been considered residents under the provisions of this subsection.**

17 **(C) The number of individuals who may be considered residents under the provisions of  
18 this subsection may not increase relative to the number who would have been considered  
19 residents under the provisions of this subsection for the 2010-2011 school year.**

20 **(c) As used in this subsection, “foreign exchange student” means an individual who at-  
21 tends school in Oregon under a cultural exchange program and whose parent, guardian or  
22 person in parental relationship resides in another country.**

23 **SECTION 3. (1) Section 19, chapter 735, Oregon Laws 2013, is repealed.**

24 **(2) Section 20, chapter 735, Oregon Laws 2013, as amended by section 1, chapter 299,  
25 Oregon Laws 2015, and section 5, chapter 21, Oregon Laws 2020 (first special session), is re-  
26 pealed.**

27 **SECTION 4. ORS 327.006 is amended to read:**

28 327.006. As used in ORS 327.006 to 327.133, 327.348 and 327.731 **and sections 1 to 3, chapter  
29 735, Oregon Laws 2013:**

30 (1) “Aggregate days membership” means the sum of days present and absent, according to the  
31 rules of the State Board of Education, of all resident pupils when school is actually in session during  
32 a certain period. The aggregate days membership of kindergarten pupils shall be calculated on the  
33 basis of a half-day program for half-day kindergarten and on the basis of a full-day program for  
34 full-day kindergarten.

35 (2)(a) “Approved transportation costs” means those costs as defined by rule of the State Board  
36 of Education and is limited to those costs attributable to transporting or room and board provided  
37 in lieu of transporting:

38 (A) Elementary school students who live at least one mile from school;

39 (B) Secondary school students who live at least 1.5 miles from school;

40 (C) Any student required to be transported for health or safety reasons, according to supple-  
41 mental plans from districts that have been approved by the state board identifying students who are  
42 required to be transported for health or safety reasons, including special education;

43 (D) Preschool children with disabilities requiring transportation for early intervention services  
44 provided pursuant to ORS 343.224 and 343.533;

45 (E) Students who require payment of room and board in lieu of transportation;

1 (F) A student transported from one school or facility to another school or facility when the  
2 student attends both schools or facilities during the day or week; and

3 (G) Students participating in school-sponsored field trips that are extensions of classroom  
4 learning experiences.

5 (b) "Approved transportation costs" does not include the cost of constructing boarding school  
6 facilities.

7 (3) "Average daily membership" or "ADM" means the aggregate days membership of a school  
8 during a certain period divided by the number of days the school was actually in session during the  
9 same period. However, if a district school board adopts a class schedule that operates throughout  
10 the year for all or any schools in the district, average daily membership shall be computed by the  
11 Department of Education so that the resulting average daily membership will not be higher or lower  
12 than if the board had not adopted such schedule.

13 (4) "Kindergarten" means a kindergarten program that conforms to the standards and rules  
14 adopted by the State Board of Education.

15 (5) "Net operating expenditures" means the sum of expenditures of a school district in  
16 kindergarten through grade 12 for administration, instruction, attendance and health services, op-  
17 eration of plant, maintenance of plant, fixed charges and tuition for resident students attending in  
18 another district, as determined in accordance with the rules of the State Board of Education, but  
19 net operating expenditures does not include transportation, food service, student body activities,  
20 community services, capital outlay, debt service or expenses incurred for nonresident students.

21 (6)(a) "Resident pupil" means any pupil:

22 (A) Whose legal school residence is within the boundaries of a school district reporting the pup-  
23 il, if the district is legally responsible for the education of the pupil, except that "resident pupil"  
24 does not include a pupil who pays tuition or for whom the parent pays tuition or for whom the  
25 district does not pay tuition for placement outside the district; or

26 (B) Whose legal residence is not within the boundaries of the district reporting the pupil but  
27 who attends school in the district with the written consent of the district school board where the  
28 school is located as provided by ORS 339.133 (5)(a).

29 (b) A pupil is not considered to be a resident pupil under paragraph (a)(A) of this subsection if  
30 the pupil is attending school in another school district pursuant to a contract under ORS 339.125  
31 and in the prior year was considered to be a resident pupil in another school district under para-  
32 graph (a)(B) of this subsection. The pupil shall continue to be considered a resident of another  
33 school district under paragraph (a)(B) of this subsection.

34 (c) A pupil is not considered to be a resident pupil under paragraph (a)(B) of this subsection if  
35 the pupil is attending school in a school district pursuant to ORS 339.133 (5)(a) and in the prior year  
36 was considered to be a resident pupil under paragraph (a)(A) of this subsection because the pupil  
37 was attending school in another school district pursuant to a contract under ORS 339.125. The pupil  
38 shall continue to be considered a resident pupil under paragraph (a)(A) of this subsection.

39 (d) "Resident pupil" includes a pupil who is:

40 (A) Admitted to a school district under ORS 339.115 (7); or

41 (B) Considered a resident under ORS 339.133 (5)(b).

42 (7) "Standard school" means a school meeting the standards set by the rules of the State Board  
43 of Education.

44 (8) "Tax" and "taxes" includes all taxes on property, excluding exempt bonded indebtedness, as  
45 those terms are defined in ORS 310.140.

1       **SECTION 5.** ORS 327.008 is amended to read:

2       327.008. (1)(a) There is established a State School Fund in the General Fund.

3       (b) The Department of Education, on behalf of the State of Oregon, may solicit and accept gifts,  
4 grants, donations and other moneys from public and private sources for the State School Fund.  
5 Moneys received as provided in this paragraph shall be deposited into the State School Fund.

6       (c) The State School Fund shall consist of moneys appropriated by the Legislative Assembly,  
7 moneys transferred from the Fund for Student Success, moneys transferred from the Education Sta-  
8 bility Fund and the Oregon Marijuana Account and moneys received as provided in paragraph (b)  
9 of this subsection.

10       (d) The State School Fund is continuously appropriated to the Department of Education for the  
11 purposes of ORS 327.006 to 327.077, 327.095, 327.099, 327.101, 327.125, 327.137, 327.348, 336.575,  
12 336.580, 336.635, 343.243, 343.533, 343.941 and 343.961 **and sections 1 to 3, chapter 735, Oregon**  
13 **Laws 2013.**

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

18       (3) For the first school year after a public charter school ceases to operate because of dissol-  
19 ution or closure or because of termination or nonrenewal of a charter, there shall be apportioned  
20 from the State School Fund to each school district that had sponsored a public charter school that  
21 ceased to operate an amount equal to the school district's general purpose grant per extended  
22 ADMw multiplied by five percent of the ADM of the public charter school for the previous school  
23 year.

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

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

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

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

32       (8) The total amount of the State School Fund that is distributed as facility grants may not ex-  
33 ceed \$7 million in any biennium. If the total amount to be distributed as facility grants exceeds this  
34 limitation, the Department of Education shall prorate the amount of funds available for facility  
35 grants among those school districts that qualified for a facility grant. If the total amount to be dis-  
36 tributed as facility grants does not exceed this limitation, any remaining amounts shall be expended  
37 for expenses incurred by the Office of School Facilities as provided in ORS 326.125 (1).

38       (9) Each biennium, the Department of Education may expend from the State School Fund no  
39 more than \$6 million for expenses incurred by the Office of School Facilities under ORS 326.125 (2)  
40 to (6).

41       (10) Each fiscal year, the Department of Education shall transfer to the Pediatric Nursing Fa-  
42 cility Account established in ORS 327.022 the amount necessary to pay the costs of educational  
43 services provided to students admitted to pediatric nursing facilities as provided in ORS 343.941.

44       (11) Each fiscal year, the Department of Education shall transfer the amount of \$55 million from  
45 the State School Fund to the High Cost Disabilities Account established in ORS 327.348.

1 (12)(a) Each biennium, the Department of Education shall transfer \$39.5 million from the State  
2 School Fund to the Educator Advancement Fund established under ORS 342.953.

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

4 (A) The total amount available for all distributions from the State School Fund shall be reduced  
5 by \$6 million;

6 (B) The amount distributed to school districts from the State School Fund under this section and  
7 ORS 327.013 shall be reduced by \$16.75 million; and

8 (C) The amount distributed to education service districts from the State School Fund under this  
9 section and ORS 327.019 shall be reduced by \$16.75 million.

10 (c) For each biennium, the amounts identified in this subsection shall be adjusted by the same  
11 percentage by which the instructions furnished to state agencies by the Governor under ORS 291.204  
12 direct the state agencies to adjust their agency budget requests for special payments under ORS  
13 291.216 (6)(a)(C).

14 (13) Each biennium, the Department of Education shall transfer \$12.5 million from the State  
15 School Fund to the Statewide English Language Learner Program Account established under ORS  
16 327.344.

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

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

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

27 (17) Each biennium, the Department of Education shall transfer \$2 million from the State School  
28 Fund for deposit to the Healthy School Facilities Fund established under ORS 332.337.  
29 Notwithstanding ORS 332.337, the department may expend moneys received in the Healthy School  
30 Facilities Fund under this subsection only as grants for costs associated with testing for elevated  
31 levels of lead in water used for drinking or food preparation.

32 **(18) Each fiscal year, the Department of Education shall transfer the amount of \$2.5**  
33 **million from the State School Fund to the Small School District Supplement Fund established**  
34 **in section 3, chapter 735, Oregon Laws 2013.**

35 **SECTION 6.** ORS 327.019 is amended to read:

36 327.019. (1) As used in this section:

37 (a) "Education service district extended ADMw" means the sum of the extended ADMw of the  
38 school districts located within the territory of the education service district as computed under ORS  
39 327.013.

40 (b) "Local revenues of an education service district" means the total of the following:

41 (A) The amount of revenue offset against local property taxes as determined by the Department  
42 of Revenue under ORS 311.175 (3)(a)(A);

43 (B) The amount of property taxes actually received by the district including penalties and in-  
44 terest on taxes;

45 (C) The amount of revenue received by the district from state-managed forestlands under ORS

1 530.115 (1)(b) and (c); and

2 (D) Any positive amount obtained by subtracting the operating property taxes actually imposed  
3 by the district based on the rate certified pursuant to ORS 310.060 from the amount that would have  
4 been imposed by the district if the district had certified the maximum rate of operating property  
5 taxes allowed by law.

6 (2) Each fiscal year, the Superintendent of Public Instruction shall calculate a State School Fund  
7 grant for each education service district as provided in this section.

8 (3)(a) Each fiscal year, the superintendent shall calculate the total amount appropriated or al-  
9 located to the State School Fund and available for distribution to school districts, education service  
10 districts and programs + total amount of local revenues of all school districts, computed as provided  
11 in ORS 327.011, + total amount of local revenues of all education service districts. The super-  
12 intendent may not include in the calculation under this paragraph amounts received by the De-  
13 partment of Education from the State School Fund under ORS 343.243.

14 (b) The superintendent shall multiply the amount calculated under paragraph (a) of this sub-  
15 section by 95.5 percent.

16 (c) Based on the amount calculated under paragraph (b) of this subsection, the superintendent  
17 shall calculate a funding percentage to distribute as nearly as practicable under ORS 327.006 to  
18 327.133 and 327.348 **and sections 1 to 3, chapter 735, Oregon Laws 2013**, the total amount calcu-  
19 lated under paragraph (b) of this subsection as school district general purpose grants, facility grants,  
20 high cost disabilities grants and transportation grants to school districts.

21 (d) Based on the funding percentage calculated under paragraph (c) of this subsection, the su-  
22 perintendent shall calculate the general purpose grant, facility grant, transportation grant and high  
23 cost disabilities grant amounts for each school district.

24 (4)(a) The general services grant for an education service district shall equal the higher of:

25 (A) The total amount calculated under subsection (3)(d) of this section for the school districts  
26 located within the territory of the education service district  $\times (4.5 \div 95.5)$ ; or

27 (B) \$1,165,000, as adjusted each school year based on the same percentage by which the amount  
28 appropriated to the State School Fund for distribution to education service districts is increased or  
29 decreased as compared with the amount appropriated for the 2015-2016 school year, if the education  
30 service district received a general services grant of \$1 million for the 2010-2011 school year.

31 (b) Notwithstanding paragraph (a) of this subsection and only for State School Fund distrib-  
32 utions made for the first school year after two or more education service districts join together, if  
33 an education service district received a general services grant as provided by paragraph (a)(B) of  
34 this subsection prior to the education service district joining together with one or more other edu-  
35 cation service districts to form a new education service district:

36 (A) The general services grant for the new education service district shall be calculated for each  
37 component education service district as though the component education service districts had not  
38 joined together to form a new education service district; and

39 (B) A component education service district that received an amount as provided by paragraph  
40 (a)(B) of this subsection shall be entitled to receive that amount under the calculation provided by  
41 this paragraph.

42 (5) Subject to subsection (6) of this section, the State School Fund grant for an education service  
43 district = general services grant – local revenues of the education service district.

44 (6)(a) After completing the calculations under subsections (2) to (5) of this section, the Super-  
45 intendent of Public Instruction shall apportion from the State School Fund to each education service

1 district an amount = (funding percentage × general services grant) – local revenues of the edu-  
2 cation service district.

3 (b) The funding percentage used in paragraph (a) of this subsection shall be calculated by the  
4 superintendent to distribute as nearly as practicable the total amount available for distribution to  
5 education service districts from the State School Fund for each fiscal year.

6 (7) Notwithstanding subsections (5) and (6) of this section:

7 (a) The State School Fund grant of an education service district may not be less than zero; and

8 (b) The State School Fund grant of an education service district shall be in an amount that,  
9 when combined with the local revenues of the education service district, equals \$1,165,000, as ad-  
10 justed each school year based on the same percentage by which the amount appropriated to the  
11 State School Fund for distribution to education service districts is increased or decreased as com-  
12 pared with the amount appropriated for the 2015-2016 school year.

13 (8) An education service district shall distribute to school districts located within the territory  
14 of the education service district any amount of local revenues of the education service district that  
15 is greater than the general services grant. The amount that each school district receives under this  
16 subsection shall be prorated based on the district extended ADMw of the school district as calcu-  
17 lated under ORS 327.013.

18 (9)(a) An education service district shall distribute to a school district that is located within the  
19 territory of the education service district but that has withdrawn from the education service district  
20 as provided in ORS 334.015 the amounts received by the education service district as a general  
21 services grant and from the School Improvement Fund.

22 (b) The amounts that a school district receives under this subsection:

23 (A) Shall be prorated based on the district extended ADMw of the school district as calculated  
24 under ORS 327.013;

25 (B) Shall equal 90 percent of the school district's prorated share, as calculated under subpara-  
26 graph (A) of this paragraph; and

27 (C) May be used to pay for any expenses incurred in providing services described in ORS 334.175  
28 (2) to the students of the school district by:

29 (i) The school district;

30 (ii) The education service district from which the school district withdrew;

31 (iii) An education service district that is not the education service district from which the  
32 school district withdrew; or

33 (iv) Any other public entity with which the school district has entered into a contract to provide  
34 the services.

35 **SECTION 7.** ORS 327.125 is amended to read:

36 327.125. The Superintendent of Public Instruction shall administer the provisions of ORS 327.006  
37 to 327.133, 327.348 and 327.731 **and sections 1 to 3, chapter 735, Oregon Laws 2013.** The State  
38 Board of Education shall adopt all necessary rules not inconsistent with ORS 327.006 to 327.133,  
39 327.348 and 327.731 **and sections 1 to 3, chapter 735, Oregon Laws 2013,** to carry into effect the  
40 provisions of those statutes.

41 **SECTION 8.** ORS 327.137 is amended to read:

42 327.137. (1)(a) Every common or union high school district or education service district shall file  
43 a copy of its audit report with the Department of Education within six months of the end of the  
44 fiscal year for which the audit is required. The audit report shall include:

45 (A) Information necessary for the computation required in the administration of ORS 327.006 to



1 327.133, 327.348, 327.731, 328.542 and 530.115 **and sections 1 to 3, chapter 735, Oregon Laws 2013,**  
2 and this section; and

3 (B) If the district is a sponsor of any public charter schools, a copy of each annual audit for-  
4 warded to the district as required by ORS 338.095 (4).

5 (b) If the audit report, as submitted to the district, fails to provide the detail necessary for the  
6 computation required in the administration of ORS 327.006 to 327.133, 327.348, 327.731, 328.542 and  
7 530.115 **and sections 1 to 3, chapter 735, Oregon Laws 2013,** and this section, the district shall  
8 submit the necessary information on forms provided by the department within the time prescribed  
9 for filing the audit in this section.

10 (c) The Superintendent of Public Instruction may withhold any payments from the State School  
11 Fund for a public charter school that, pursuant to ORS 338.155, are due to a district under ORS  
12 327.095 if:

13 (A) The audit report filed by the district fails to include the public charter school annual audit  
14 as required by paragraph (a)(B) of this subsection; and

15 (B) The district has not filed the public charter school annual audit with the department by  
16 April 1.

17 (d) If payments are withheld as provided by paragraph (c) of this subsection, the superintendent  
18 may allow payments to be made from the State School Fund to the district upon receipt of the an-  
19 nual audit or upon the meeting of any other conditions identified by rule of the State Board of Ed-  
20 ucation.

21 (e) Any district failing to file a copy of an audit report under this section or a report under ORS  
22 327.133 may not receive any payments from the State School Fund until the report is filed.

23 (2) Notwithstanding the timeline provided by this section and pursuant to rules adopted by the  
24 State Board of Education, the superintendent may waive a reporting date or specify an alternative  
25 date to provide the audit report or information if a human-created disaster or a natural disaster  
26 affects the ability of a school district or an education service district to provide the audit report  
27 or information by a specified date.

28 **SECTION 9.** ORS 339.129 is amended to read:

29 339.129. (1) A school district shall provide or cause to be provided appropriate education for  
30 children placed in a local or regional correctional facility located in the school district. The edu-  
31 cation may be provided by the school district or an education service district.

32 (2) The school district may claim State School Fund reimbursement under ORS 327.006 to  
33 327.133, 327.348 and 327.731 **and sections 1 to 3, chapter 735, Oregon Laws 2013,** for each child  
34 who is in a local or regional correctional facility.

35 (3) A local or regional correctional facility shall notify the school district within which the fa-  
36 cility is located of the name and date of birth of each school-age child placed in the facility, in-  
37 cluding a child with a disability under the age of 22 years who may be eligible for special education.  
38 The notice shall be in writing and shall be given within five business days of the child's placement  
39 in the facility.

40 (4) The local or regional correctional facility shall allow the school district and education ser-  
41 vice district to have safe and reasonable access to children placed in that facility for whom the  
42 school district is required to provide education.

43 (5) As used in this section:

44 (a) "Local correctional facility" means a local correctional facility as defined in ORS 169.005.

45 (b) "Regional correctional facility" means a regional correctional facility as defined in ORS

1 169.620.

2 **SECTION 10.** ORS 340.045 is amended to read:

3 340.045. (1) An eligible student enrolled in an eligible post-secondary course at an eligible post-  
4 secondary institution pursuant to ORS 340.030 shall continue to be considered a resident pupil of  
5 the student's school district for purposes of calculation of the State School Fund grant under ORS  
6 327.006 to 327.133, 327.348 and 327.731 **and sections 1 to 3, chapter 735, Oregon Laws 2013.**

7 (2) The amount of each school district's general purpose grant per extended ADMw as calcu-  
8 lated under ORS 327.013 shall be determined each fiscal year by the Department of Education and  
9 made available to all school districts and, upon request, to any eligible post-secondary institution.

10 (3) A school district and any eligible post-secondary institution that accepts a student for en-  
11 rollment in an eligible post-secondary course pursuant to ORS 340.030 shall negotiate in good faith  
12 a financial agreement for the payment of actual instructional costs associated with the enrollment  
13 of the eligible student in eligible post-secondary courses, including tuition and fees and the costs  
14 of textbooks, equipment and materials.

15 (4) As part of the negotiated financial agreement, an eligible post-secondary institution shall  
16 provide the school district with the published refund policy for eligible students who do not complete  
17 eligible post-secondary courses in which the students enroll and do not earn credit.

18 (5) If, after participating in good faith negotiations, a school district and an eligible post-  
19 secondary institution are unable to agree on the payment of actual instructional costs as described  
20 in subsection (3) of this section, either entity may appeal to the department for a determination of  
21 whether the negotiations were conducted in good faith.

22 (6) The department shall develop a process and criteria to use for appeals.

23 (7)(a) If the department determines that the negotiations were not conducted in good faith by  
24 either the school district or the eligible post-secondary institution, the department shall order the  
25 school district and the eligible post-secondary institution to conduct the negotiations again.

26 (b) If the department determines that the negotiations were conducted in good faith by the  
27 school district and the eligible post-secondary institution, the department shall grant the school  
28 district a waiver under ORS 340.083 from participating in the Expanded Options Program with the  
29 eligible post-secondary institution with which the school district was negotiating.

30 (8) The decision of the department shall be binding on the school district and the eligible post-  
31 secondary institution.

32 (9) In addition to any financial agreement entered into under subsection (3) of this section, the  
33 resident school district of the eligible student shall enter into an agreement with an eligible post-  
34 secondary institution that accepts a student for enrollment in an eligible post-secondary course that  
35 is a nontuition course or noncredit course pursuant to ORS 340.030 for the payment of the actual  
36 instructional costs associated with the student's attending the eligible post-secondary course at the  
37 institution.

38 (10) Nothing in this section shall prohibit an eligible post-secondary institution from receiving  
39 additional state funding that may be available under any other law.

40 **SECTION 11.** Section 1, chapter 735, Oregon Laws 2013, is amended to read:

41 **Sec. 1.** As used in this section and section 2 [*of this 2013 Act*], **chapter 735, Oregon Laws**  
42 **2013:**

43 (1)(a) "Small high school" means a public school that is operated by a small school district and  
44 that has students in:

45 (A) Grades 9 through 12, with an ADM of less than 350 in grades 9 through 12; or

1 (B) Grades 10 through 12 only, with an ADM of less than 267.

2 (b) "Small high school" does not include an alternative education program or a public charter  
3 school.

4 (2) "Small school district" means a school district with a weighted average daily membership  
5 (ADMw) of less than [8,500] **9,500**.

6 **SECTION 12. This 2021 Act being necessary for the immediate preservation of the public**  
7 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**  
8 **on its passage.**

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