

House Bill 3254

Sponsored by Representative MCLAIN (at the request of Coalition of Oregon School Administrators)

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**.

Directs Department of Education to provide moneys for payment of costs of education of students in qualified treatment programs.

Declares emergency, effective July 1, 2021.

A BILL FOR AN ACT

1
2 Relating to the education of students in treatment programs; amending ORS 327.023, 343.243 and
3 343.961; and declaring an emergency.

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

5 **SECTION 1.** ORS 343.961 is amended to read:

6 343.961. (1) As used in this section:

7 (a) "Day treatment program" means a public or private program that provides treatment of
8 children with a mental illness, an emotional disturbance or another mental health issue.

9 (b) "Eligible day treatment program" means a day treatment program with which the Oregon
10 Health Authority contracts for long term care or treatment. "Eligible day treatment program" does
11 not include residential treatment programs or programs that provide care or treatment to juveniles
12 who are in detention facilities.

13 (c) "Eligible residential treatment program" means a residential treatment program with which
14 the Oregon Health Authority, the Department of Human Services or the Oregon Youth Authority
15 contracts for long term care or treatment. "Eligible residential treatment program" does not include
16 psychiatric day treatment programs or programs that provide care or treatment to juveniles who
17 are in detention facilities.

18 (d) "**Qualified treatment program**" means a **community developmental disabilities pro-**
19 **gram established under ORS 430.610 to 430.695 that:**

20 (A) **Is provided in a residential setting;**

21 (B) **Was licensed by the Department of Human Services on the effective date of this 2021**
22 **Act and maintains that license as a valid license; and**

23 (C) **Received moneys under this section for the 2020-2021 school year from a school dis-**
24 **trict that has an average daily membership, as defined in ORS 327.006, of 15,000 or less.**

25 [(d)] (e) "Residential treatment program" means a public or private residential program that
26 provides treatment of children with a mental illness, an emotional disturbance or another mental
27 health issue.

28 [(e)] (f) "Student" means a child who is placed in an eligible day treatment program, [or] eligible
29 residential treatment program **or qualified treatment program** by a public or private entity or by
30 the child's parent.

31 (2) The Department of Education shall provide moneys for payment of the costs of education of

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 students in eligible day treatment programs, *[and]* eligible residential treatment programs **and**
 2 **qualified treatment programs** as provided by ORS 327.023. Payment shall be made to the school
 3 district in which the eligible day treatment program, *[or]* eligible residential treatment program **or**
 4 **qualified treatment program** is located. The costs of education do not include transportation, care,
 5 treatment or medical expenses.

6 (3)(a) The school district in which an eligible day treatment program, *[or]* eligible residential
 7 treatment program **or qualified treatment program** is located is responsible for providing the ed-
 8 ucation of a student, including the identification, location and evaluation of the student for the
 9 purpose of determining the student’s eligibility to receive special education and related services.

10 (b) A school district that is responsible for providing an education under this subsection may
 11 provide the education:

12 (A) Directly or through another school district or an education service district; and

13 (B) In the facilities of an eligible day treatment program, *[or]* eligible residential treatment
 14 program **or qualified treatment program**, the facilities of a school district or the facilities of an
 15 education service district.

16 (c) When a student is no longer in an eligible day treatment program, *[or]* eligible residential
 17 treatment program **or qualified treatment program**, the responsibilities imposed by this subsection
 18 terminate and become the responsibilities of the school district where the student is a resident, as
 19 determined under ORS 339.133 and 339.134.

20 (4) The school district where the student is a resident is responsible for providing transportation
 21 to a student enrolled in an eligible day treatment program. Transportation must be provided by the
 22 school district where the student is a resident each day the student is scheduled to receive services
 23 from the eligible day treatment program.

24 (5) A school district may request the Department of Education to directly make payments to
 25 another school district or an education service district for eligible day treatment programs, *[or]* eli-
 26 gible residential treatment programs **or qualified treatment programs** when education is provided
 27 by the other school district or the education service district. Payments made under this subsection
 28 do not affect any responsibilities described in subsection (3) of this section for the school district
 29 that made the request.

30 (6) The Oregon Health Authority, the Department of Human Services or the Oregon Youth Au-
 31 thority shall give the school district providing the education at an eligible day treatment program,
 32 *[or an]* eligible residential treatment program **or qualified treatment program** 14 days’ notice, to
 33 the extent practicable, before a student is dismissed from the program.

34 (7) The Department of Education may make advances to school districts responsible for provid-
 35 ing an education to students under this section from funds appropriated for that purpose based on
 36 the estimated agreed cost of educating the students per school year. Advances equal to 25 percent
 37 of the estimated cost may be made on September 1, December 1 and March 1 of the current year.
 38 The balance may be paid whenever the full determination of cost is made.

39 (8) School districts that provide the education described in this section on a year-round plan
 40 may apply for 25 percent of the funds appropriated for that purpose on July 1, October 1, January
 41 1, and 15 percent on April 1. The balance may be paid whenever the full determination of cost is
 42 made.

43 (9) In addition to the payment methods described in this section, the Department of Education
 44 may negotiate intergovernmental agreements to pay for the cost of education in day treatment pro-
 45 grams and residential treatment programs operated under the auspices of the governing board of a

1 public university listed in ORS 352.002 or the Oregon Health and Science University Board of Di-
2 rectors.

3 **SECTION 2.** ORS 327.023 is amended to read:

4 327.023. In addition to those moneys distributed through the State School Fund, the Department
5 of Education shall provide from state funds appropriated therefor, grants in aid or support for spe-
6 cial and compensatory education programs including:

7 (1) The Oregon School for the Deaf.

8 (2) Medicaid match for administration efforts to secure Medicaid funds for services provided to
9 children with disabilities.

10 (3) Hospital programs for education services to children who are hospitalized for extended pe-
11 riods of time or who require hospitalization due to severe disabilities as described in ORS 343.261.

12 (4) **Eligible** day treatment programs, [*and*] **eligible** residential treatment programs **and qualified**
13 **treatment programs** for education services to children who are in the treatment programs as de-
14 scribed in ORS 343.961.

15 (5) Regional services provided to children with low-incidence disabling conditions as described
16 in ORS 343.236.

17 (6) Early childhood special education provided to preschool children with disabilities from age
18 three until age of eligibility for kindergarten as described in ORS 339.185, 343.035, 343.041, 343.055,
19 343.065, 343.157 and 343.455 to 343.534.

20 (7) Early intervention services for preschool children from birth until age three as described in
21 ORS 339.185, 343.035, 343.041, 343.055, 343.065, 343.157 and 343.455 to 343.534.

22 (8) Evaluation services for children with disabilities to determine program eligibility and needs
23 as described in ORS 343.146.

24 (9) Education services to children residing at state hospitals.

25 (10) Disadvantaged children program under ORS 343.680.

26 (11) Early childhood education under ORS 329.235.

27 (12) Child development specialist program under ORS 329.255.

28 (13) Youth care centers under ORS 420.885 that are not within a detention facility, as defined
29 in ORS 419A.004.

30 (14) Staff development and mentoring.

31 (15) Career and technical education grants.

32 (16) Special science education programs.

33 (17) Talented and Gifted children program under ORS 343.391 to 343.413.

34 (18) Pediatric nursing facility programs for educational services provided to students who are
35 admitted to pediatric nursing facilities as provided in ORS 343.941.

36 **SECTION 3.** ORS 343.243 is amended to read:

37 343.243. (1) Each school year, the Department of Education shall receive an amount, as calcu-
38 lated under this section, from the State School Fund to pay the costs of educating children in pro-
39 grams under ORS 343.261, 343.961 and 346.010.

40 (2) To meet the requirements of ORS 343.261, the department shall receive from the State School
41 Fund an amount that is equal to the product of the following:

42 (a) The average net operating expenditure per student of all school districts during the preced-
43 ing school year; and

44 (b) The number of slots available for students in the hospital programs under ORS 343.261, as
45 determined by the department for the school year.

1 (3) To meet the requirements of ORS 343.961, the department shall receive from the State School
2 Fund an amount that is equal to the product of the following:

3 (a) The average net operating expenditure per student of all school districts during the preced-
4 ing school year; and

5 (b) The number of slots available for all students in eligible day treatment programs, [and] eli-
6 gible residential treatment programs **and qualified treatment programs** under ORS 343.961 for the
7 school year, as determined by the Department of Education based on information received from the
8 Department of Human Services, the Oregon Health Authority, the Oregon Youth Authority and eli-
9 gible day treatment programs, [and] eligible residential treatment programs **and qualified treat-
10 ment programs.**

11 (4) To meet the requirements of ORS 346.010, the Department of Education shall receive from
12 the State School Fund an amount that is equal to the product of the following:

13 (a) The average net operating expenditure per student of all school districts during the preced-
14 ing school year; and

15 (b) The resident average daily membership of students enrolled in a program under ORS 346.010
16 for one-half of the school day or more, exclusive of preschool children covered by ORS 343.533.

17 (5) The children covered by this section shall be enumerated in the average daily membership
18 of the district providing the instruction but the district may not accrue credit for days' attendance
19 of such children for the purpose of distributing state school funds.

20 (6) The liability of a district shall not exceed the amount established under this section even if
21 the child is otherwise subject to ORS 336.575 and 336.580.

22 (7) The department shall credit amounts received from the State School Fund under this section
23 to the appropriate subaccount in the Special Education Account.

24 **SECTION 4. This 2021 Act being necessary for the immediate preservation of the public**
25 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**
26 **July 1, 2021.**