

B-Engrossed
Senate Bill 1002

Ordered by the Senate June 12
Including Senate Amendments dated June 2 and June 12

Sponsored by Senator DEMBROW (at the request of 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.

Eliminates State School Fund distributions for facility grants. Carves out amount from State School Fund to be used by Department of Education in supporting school districts, education service districts and public charter schools before, during or after threat or hazard to help improve safety and security of students and staff.

Declares emergency, effective July 1, 2023.

A BILL FOR AN ACT

1
2 Relating to school facilities; creating new provisions; amending ORS 326.545, 327.001, 327.008,
3 327.011, 327.013, 327.019, 327.336 and 329.488; and declaring an emergency.

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

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

6 327.008. (1)(a) There is established a State School Fund in the General Fund.

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

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

14 (d) The State School Fund is continuously appropriated to the Department of Education for the
15 purposes of ORS 327.006 to 327.077, 327.095, 327.099, 327.101, 327.125, 327.137, 327.348, 327.356 to
16 327.359, 336.575, 336.580, 336.635, 343.243, 343.533, 343.941 and 343.961.

17 (2) There shall be apportioned from the State School Fund to each school district a State School
18 Fund grant, consisting of the positive amount equal to a general purpose grant [*and a facility*
19 *grant*] and a transportation grant and a high cost disabilities grant minus local revenue, computed
20 as provided in ORS 327.011 and 327.013.

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

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

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

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

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

9 *[(8) The total amount of the State School Fund that is distributed as facility grants may not exceed
10 \$3 million in any biennium. If the total amount to be distributed as facility grants exceeds this limita-
11 tion, the Department of Education shall prorate the amount of funds available for facility grants among
12 those school districts that qualified for a facility grant. If the total amount to be distributed as facility
13 grants does not exceed this limitation, any remaining amounts shall be expended for expenses incurred
14 by the Office of School Facilities as provided in ORS 326.125 (1).]*

15 **(7) Each biennium, the Department of Education may expend from the State School Fund**
16 **no more than \$3 million for expenses incurred by the department in providing support to**
17 **school districts, education service districts and public charter schools at any time before,**
18 **during or after a threat or hazard that may affect a school district, an education service**
19 **district or a public charter school and for the purpose of helping to improve the safety and**
20 **security of students and staff.**

21 *[(9) (8) Each biennium, the Department of Education may expend from the State School Fund*
22 *no more than \$10 million for expenses incurred by the Office of School Facilities under ORS 326.125*
23 *(2) to (7).*

24 *[(10) (9) Each fiscal year, the Department of Education shall transfer to the Pediatric Nursing*
25 *Facility Account established in ORS 327.022 the amount necessary to pay the costs of educational*
26 *services provided to students admitted to pediatric nursing facilities as provided in ORS 343.941.*

27 *[(11) (10) Each fiscal year, the Department of Education shall transfer the amount of \$55 million*
28 *from the State School Fund to the High Cost Disabilities Account established in ORS 327.348.*

29 *[(12)(a) (11)(a) Each biennium, the Department of Education shall transfer \$39.5 million from*
30 *the State School Fund to the Educator Advancement Fund established under ORS 342.953.*

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

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

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

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

38 (c) For each biennium, the amounts identified in this subsection shall be adjusted by the same
39 percentage by which the instructions furnished to state agencies by the Governor under ORS 291.204
40 direct the state agencies to adjust their agency budget requests for special payments under ORS
41 291.216 (6)(a)(C).

42 *[(13) (12) Each biennium, the Department of Education shall transfer \$12.5 million from the*
43 *State School Fund to the Statewide English Language Learner Program Account established under*
44 *ORS 327.344.*

45 *[(14) (13) Each fiscal year, the Department of Education may expend up to \$550,000 from the*

1 State School Fund for the contract described in ORS 329.488. The amount distributed to education
2 service districts from the State School Fund under this section and ORS 327.019 shall be reduced
3 by the amount expended by the department under this subsection.

4 [(15)] (14) Each biennium, the Department of Education may expend up to \$350,000 from the
5 State School Fund to provide administration of and support for the development of talented and
6 gifted education under ORS 343.404.

7 [(16)] (15) Each biennium, the Department of Education may expend up to \$150,000 from the
8 State School Fund for the administration of a program to increase the number of speech-language
9 pathologists and speech-language pathology assistants under ORS 348.394 to 348.406.

10 [(17)] (16) Each biennium, the Department of Education shall transfer \$2 million from the State
11 School Fund for deposit to the Healthy School Facilities Fund established under ORS 332.337.
12 Notwithstanding ORS 332.337, the department may expend moneys received in the Healthy School
13 Facilities Fund under this subsection only as grants for costs associated with testing for elevated
14 levels of lead in water used for drinking or food preparation.

15 [(18)] (17) Each biennium, the Department of Education shall transfer an amount not to exceed
16 \$5,595,000 for the purpose of making tampons and sanitary pads available as provided by ORS
17 326.545.

18 [(19)] (18) Each fiscal year, the Department of Education shall transfer the amount of \$2.5
19 million from the State School Fund to the Small School District Supplement Fund established in ORS
20 327.359.

21 **SECTION 2.** ORS 327.011 is amended to read:

22 327.011. For the purpose of State School Fund distributions for school districts:

23 (1) Local Revenues are the total of the following:

24 (a) The amount of revenue offset against local property taxes as determined by the Department
25 of Revenue under ORS 311.175 (3)(a)(A).

26 (b) The amount of property taxes actually received by the district, including penalties and in-
27 terest on taxes.

28 (c) The amount of revenue received by the district from the Common School Fund under ORS
29 327.403 to 327.410.

30 (d) The amount of revenue received by the district from the county school fund.

31 (e) The amount of revenue received by the district from the 25 percent of federal forest reserve
32 revenues required to be distributed to schools by ORS 294.060 (1).

33 (f) The amount of revenue received by the district from state managed forestlands under ORS
34 530.115 (1)(b) and (c).

35 (g) Moneys received in lieu of property taxes.

36 (h) Federal funds received without specific application by the school district and that are not
37 deemed under federal law to be nonsupplantable.

38 (i) Any positive amount obtained by subtracting the operating property taxes actually imposed
39 by the district, based on the rate certified pursuant to ORS 310.060, from the amount that would
40 have been imposed by the district if the district had certified the maximum rate of operating prop-
41 erty taxes allowed by law.

42 (j) Any amount distributed to the district in the prior fiscal year under ORS 327.019 (8).

43 (2) Local Revenues do not include:

44 (a) If a school district imposes local option taxes pursuant to ORS 280.040 to 280.145, an amount
45 equal to the least of:

1 (A) The amount of revenue actually received by the district from local option taxes imposed
2 pursuant to ORS 280.040 to 280.145;

3 (B) Twenty-five percent of the total received by the school district from the general purpose
4 grant, the transportation grant[, *the facility grant*] and the high cost disabilities grant of the district,
5 as those grants are calculated under ORS 327.013; or

6 (C) \$2,000 per district extended ADMw, as calculated under ORS 327.013, increased each fiscal
7 year by three percent above the amount allowed per district extended ADMw for the prior fiscal
8 year.

9 (b) For a school district with a statutory rate limit on July 1, 2003, that is greater than \$4.50
10 per \$1,000 of assessed value, the amount of property taxes actually received by the district, includ-
11 ing penalties and interest on taxes, that results from an increase in the rate of ad valorem property
12 tax of the district allowed under Article XI, section 11 (5)(d), of the Oregon Constitution.

13 **SECTION 3.** ORS 327.013 is amended to read:

14 327.013. The State School Fund distributions for school districts include the following grants:

15 (1) General Purpose Grant = Funding Percentage \times Target Grant \times District extended ADMw.
16 For the purpose of the calculation made under this subsection:

17 (a) The funding percentage shall be calculated by the Superintendent of Public Instruction to
18 distribute as nearly as practicable the total sum of money available for distribution.

19 (b) Target Grant = Statewide Target per ADMw Grant + Teacher Experience Factor. For the
20 purpose of the calculation made under this paragraph:

21 (A) Statewide Target per ADMw Grant = \$4,500.

22 (B) Teacher Experience Factor = $\$25 \times \{\text{District average teacher experience} - \text{statewide av-}$
23 $\text{erage teacher experience}\}$. As used in this subparagraph, "average teacher experience" means the
24 average, in years, of teaching experience of licensed teachers as reported to the Department of Ed-
25 ucation.

26 (c) District extended ADMw = ADMw or ADMw of the prior year, whichever is greater. The
27 calculation of the district extended ADMw must be made as provided by ORS 338.155 if a public
28 charter school is located in the school district. For the purpose of this paragraph:

29 (A) Weighted average daily membership or ADMw = average daily membership + an additional
30 amount computed as follows:

31 (i) 1.0 for each student in average daily membership eligible for special education as a child with
32 a disability under ORS 343.035, which may not exceed 11 percent of the district's ADM without re-
33 view and approval by the Department of Education. Children with disabilities eligible for special
34 education in adult local correctional facilities, as defined in ORS 169.005, or adult regional
35 correctional facilities, as defined in ORS 169.620, may not be included in the calculation made under
36 this sub-subparagraph.

37 (ii) 0.5 for each student in average daily membership eligible for and enrolled in an English
38 language learner program under ORS 336.079.

39 (iii) 0.2 for each student in average daily membership enrolled in a union high school district
40 or in an area of a unified school district where the district is only responsible for educating students
41 in grades 9 through 12 in that area.

42 (iv) -0.1 for each student in average daily membership enrolled in an elementary district oper-
43 ating kindergarten through grade six or kindergarten through grade eight or in an area of a unified
44 school district where the district is only responsible for educating students in kindergarten through
45 grade eight.

1 (v) 0.25 times the sum of the following:

2 (I) The number of students who are in average daily membership and who are also in poverty
3 families, as determined by the Department of Education based on rules adopted by the State Board
4 of Education that incorporate poverty data published by the United States Census Bureau, student
5 data provided by school districts and other data identified by the board;

6 (II) The number of children in foster homes in the district as determined by the report of the
7 Department of Human Services to the United States Department of Education, "Annual Statistical
8 Report on Children in Foster Homes and Children in Families Receiving AFDC Payments in Excess
9 of the Poverty Income Level," or its successor, for October 31 of the year prior to the year of dis-
10 tribution; and

11 (III) The number of children in the district in state-recognized facilities for neglected and de-
12 linquent children, based on information from the Department of Human Services for October 31 of
13 the year prior to the year of distribution.

14 (vi) The amount determined under ORS 327.077 for each remote small elementary school and for
15 each small high school in the district.

16 (B) All numbers of children used for the computation in this paragraph must reflect any district
17 consolidations that have occurred since the numbers were compiled.

18 (C) The total additional weight that shall be assigned to any student in average daily member-
19 ship in a district, exclusive of students described in subparagraph (A)(v) and (vi) of this paragraph,
20 may not exceed 2.0.

21 (2) High cost disabilities grant = the total amount received by a school district under ORS
22 327.348 for providing special education and related services to resident pupils with disabilities.

23 (3)(a) Transportation grant equals:

24 (A) 70 percent of approved transportation costs for those school districts ranked below the 80th
25 percentile under paragraph (b) of this subsection.

26 (B) 80 percent of approved transportation costs for those school districts ranked in or above the
27 80th percentile but below the 90th percentile under paragraph (b) of this subsection.

28 (C) 90 percent of approved transportation costs for those school districts ranked in or above the
29 90th percentile under paragraph (b) of this subsection.

30 (b) Each fiscal year, the Department of Education shall rank school districts based on the ap-
31 proved transportation costs per ADM of each school district, ranking the school district with the
32 highest approved transportation costs per ADM at the top of the order.

33 *[(4)(a) Facility Grant = 8 percent of total construction costs of new school buildings.]*

34 *[(b) A school district shall receive a Facility Grant in the distribution year that a new school
35 building is first used.]*

36 *[(c) As used in this subsection:]*

37 *[(A) "New school building" includes new school buildings, structures added onto existing school
38 buildings and premanufactured structures added to a school district if those buildings or structures are
39 to be used for instructing students.]*

40 *[(B) "Construction costs" does not include costs for land acquisition.]*

41 **SECTION 4.** ORS 327.019 is amended to read:

42 327.019. (1) As used in this section:

43 (a) "Education service district extended ADMw" means the sum of the extended ADMw of the
44 school districts located within the territory of the education service district as computed under ORS
45 327.013.

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

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

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

6 (C) The amount of revenue received by the district from state-managed forestlands under ORS
7 530.115 (1)(b) and (c); and

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

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

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

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

22 (c) Based on the amount calculated under paragraph (b) of this subsection, the superintendent
23 shall calculate a funding percentage to distribute as nearly as practicable under ORS 327.006 to
24 327.133, 327.348 and 327.356 to 327.359 the total amount calculated under paragraph (b) of this sub-
25 section as school district general purpose grants, [*facility grants,*] high cost disabilities grants and
26 transportation grants to school districts.

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

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

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

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

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

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

45 (B) A component education service district that received an amount as provided by paragraph

1 (a)(B) of this subsection shall be entitled to receive that amount under the calculation provided by
2 this paragraph.

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

5 (6)(a) After completing the calculations under subsections (2) to (5) of this section, the Super-
6 intendent of Public Instruction shall apportion from the State School Fund to each education service
7 district an amount = (funding percentage × general services grant) – local revenues of the educa-
8 tion service district.

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

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

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

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

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

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

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

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

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

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

35 (i) The school district;

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

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

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

41 **SECTION 5.** ORS 327.336 is amended to read:

42 327.336. (1) As used in this section:

43 (a) "Extended ADMw" means the district extended weighted average daily membership com-
44 puted under ORS 327.013 (1)(c).

45 (b) "Local option tax rate" means the amount of local option taxes imposed by the school dis-

1 trict for the current fiscal year, after compression under ORS 310.150 and after subtraction of the
 2 amount of school district local option taxes that are distributed to an urban renewal agency pursu-
 3 ant to ORS 457.440, divided by the assessed value of the school district.

4 (c) “School district” means a common or union high school district.

5 (d) “Target district” means the school district that, for the fiscal year prior to the year for
 6 which grants are being determined, had a total assessed value of taxable property per district ex-
 7 tended ADMw that was greater than all but 25 percent of the school districts in this state for that
 8 prior fiscal year. The Department of Education shall determine which school district is the target
 9 district for a fiscal year, based on the total assessed values of school districts reported to the De-
 10 partment of Education by the Department of Revenue for the fiscal year prior to the year for which
 11 grants are being determined under this section.

12 (2) A school district shall receive a local option equalization grant for a fiscal year:

13 (a) In which the school district imposes local option taxes pursuant to ORS 280.040 to 280.145;
 14 and

15 (b) For which the total assessed value of taxable property per extended ADMw of the school
 16 district for the prior fiscal year does not exceed the total assessed value of taxable property per
 17 extended ADMw of the target district for the prior fiscal year.

18 (3) The amount of the local option equalization grant shall equal the lesser of:

19 (a) The product of the local option tax rate of the school district for the current fiscal year \times
 20 (total assessed value per extended ADMw of the target district for the prior fiscal year – total
 21 assessed value per extended ADMw of the school district for the prior fiscal year) \times the extended
 22 ADMw of the school district for the prior fiscal year; or

23 (b) The amount obtained by subtracting the local option tax imposed by the school district for
 24 the current fiscal year, after compression under ORS 310.150, from the lesser of:

25 (A) Twenty percent of the combined total for the school district of the general purpose grant,
 26 the transportation grant[, *the facility grant*] and the high cost disabilities grant of the school district
 27 for the current fiscal year; or

28 (B) \$1,000 multiplied by the extended ADMw of the school district for the current fiscal year.
 29 The amount multiplied by the extended ADMw of the school district shall be increased each fiscal
 30 year by three percent above the amount allowed for the prior fiscal year.

31 (4) If the amount computed under subsection (3)(b) of this section is zero or less, a local option
 32 equalization grant may not be made to the school district for the fiscal year.

33 (5) As soon as is practicable after school districts have certified property taxes to the assessor
 34 under ORS 310.060, the Department of Revenue shall report to the Department of Education a list
 35 of school districts certifying local option taxes for the current fiscal year and the local option tax
 36 rates for those districts. The amount of each local option equalization grant shall be calculated by
 37 the Department of Education.

38 (6) If the election authorizing the imposition of a local option tax is held after the start of a
 39 biennium in which the local option tax is to be imposed, the local option equalization grant for a
 40 fiscal year of that biennium shall be determined as otherwise prescribed in this section, but may not
 41 be paid to the school district until the first fiscal year of the next succeeding biennium.

42 **SECTION 6. The amendments to ORS 327.008, 327.011, 327.013, 327.019 and 327.336 by**
 43 **sections 1 to 5 of this 2023 Act apply to State School Fund distributions commencing with**
 44 **the 2023-2024 distributions.**

45 **SECTION 7.** ORS 326.545, as amended by section 12, chapter 81, Oregon Laws 2022, is amended

1 to read:

2 326.545. (1) As used in this section:

3 (a) "Public education provider" means:

4 (A) A school district;

5 (B) A public charter school;

6 (C) An education service district;

7 (D) A community college; or

8 (E) A public university listed in ORS 352.002.

9 (b) "Public school building" means a building used by a public education provider to provide
10 educational services to students.

11 (c) "Student bathroom" means a bathroom that is accessible by students in kindergarten or
12 above, including a gender-neutral bathroom, a bathroom designated for females and a bathroom
13 designated for males.

14 (2) Each public education provider shall ensure that both tampons and sanitary pads are avail-
15 able at no cost to students through dispensers located in every student bathroom of every public
16 school building.

17 (3) A public education provider, and any employee of a public education provider, is not liable
18 in a criminal action or for civil damages as a result of a student's use of a tampon or sanitary pad
19 made available under this section.

20 (4) The State Board of Education and the Higher Education Coordinating Commission shall
21 adopt any rules necessary for the administration of this section. Rules adopted by the board and
22 commission shall provide for:

23 (a) The number of dispensers required in each student bathroom;

24 (b) The types of products available in each student bathroom;

25 (c) The provision of tampons and sanitary pads in an alternate location when the public educa-
26 tion provider does not have control of the student bathrooms used by the students of the public
27 education provider;

28 (d) Modifications to or exemptions from the requirements of this section for student bathrooms
29 that are not located in commonly accessible areas of the public school buildings of a community
30 college or a public university; and

31 (e) Payments to public education providers for costs incurred under this section, including:

32 (A) For school districts, public charter schools and education service districts and subject to
33 subparagraph (B) of this paragraph, distributions from amounts available under ORS 327.008 [(18)]
34 (17) to be made based on the average daily membership, as defined in ORS 327.006, of the district
35 or school;

36 (B) For education service districts, distributions to be made as provided by subparagraph (A)
37 of this paragraph may not exceed 7.5 percent of the amounts available for distribution under ORS
38 327.008 [(18)] (17);

39 (C) For community colleges, distributions from the Community College Support Fund to be made
40 based on the full-time equivalent student enrollment of the community college; and

41 (D) For public universities, distributions from a public university support fund established by the
42 commission by rule.

43 **SECTION 8.** ORS 327.001 is amended to read:

44 327.001. (1) The Fund for Student Success is established in the State Treasury, separate and
45 distinct from the General Fund.

1 (2) The Fund for Student Success shall consist of moneys appropriated by the Legislative As-
2 sembly, moneys transferred to the fund under ORS 317A.155 and moneys received as provided in
3 subsection (3) of this section.

4 (3) The Department of Education, on behalf of the State of Oregon, may solicit and accept gifts,
5 grants, donations and other moneys from public and private sources for the Fund for Student Suc-
6 cess. Moneys received as provided in this subsection shall be deposited into the Fund for Student
7 Success.

8 (4) Moneys in the Fund for Student Success are continuously appropriated to the department for:

9 (a) Transfer for each biennium to the State School Fund in the amount calculated by the Leg-
10 islative Fiscal Officer and the Legislative Revenue Officer to be the sum of:

11 (A) At least \$40 million, for the purpose of a transfer under ORS 327.008 [(11)] (10) to the High
12 Cost Disabilities Account established in ORS 327.348; and

13 (B) The amount of change in General Fund revenue to be collected in the biennium due to the
14 amendments to ORS 316.037 by section 56, chapter 122, Oregon Laws 2019, and the operation of ORS
15 317A.100 to 317A.158.

16 (b) Retention as a reserve for cash flow and revenue shortfall purposes.

17 (c) Of the amount in the Fund for Student Success that is not dedicated for transfer as pre-
18 scribed by paragraph (a) of this subsection or retained under paragraph (b) of this subsection,
19 transfer to other education accounts as follows:

20 (A) At least 50 percent to the Student Investment Account established in ORS 327.175.

21 (B) Up to 30 percent to the Statewide Education Initiatives Account established in ORS 327.250.

22 (C) At least 20 percent to the Early Learning Account established in ORS 327.269.

23 (5) The department shall make the transfers prescribed by subsection (4) of this section on a
24 periodic basis. The transfers must be in amounts that, based on the most recent data available to
25 the department, ensure that the amounts and percentages identified in subsection (4) of this section
26 are satisfied by the end of the biennium.

27 **SECTION 9.** ORS 329.488 is amended to read:

28 329.488. (1) The Department of Education shall contract with a nonprofit entity to administer a
29 nationally normed assessment, in collaboration with the department, to all students in grade 10 who
30 are enrolled in a public school. The purpose of the assessment is to predict the success of students
31 on, and provide practice for students taking, college entrance exams.

32 (2) The department shall base the selection of the contractor under subsection (1) of this section
33 on all of the following criteria:

34 (a) The contractor must be able to provide to the department statewide data containing the re-
35 sults of the assessment;

36 (b) The contractor shall provide an assessment that:

37 (A) Identifies students with high potential to excel in advanced placement (AP) or other honors
38 courses based on a research-based correlation of scores on the grade 10 assessment to advanced
39 placement examinations;

40 (B) Examines students in mathematics, reading and writing; and

41 (C) Provides results that can be used by Oregon's higher education institutions to recruit stu-
42 dents to attend college;

43 (c) The contractor must be able to supply schools with an item-by-item analysis of student per-
44 formance on the assessment; and

45 (d) The contractor must be able to make available to each student taking the assessment a free

1 career assessment and online exploration of colleges and career opportunities.

2 (3)(a) In lieu of using the contractor selected by the department under subsection (1) of this
3 section, a school district may apply to the department for a waiver to allow the district to enter into
4 a contract with a different nonprofit entity for the purpose of administering a nationally normed
5 assessment to all students in grade 10 who are enrolled in the public schools operated by the dis-
6 trict. The department shall grant the waiver if:

7 (A) The district had entered into a contract with the entity for the 2007-2008 school year to
8 administer a grade 10 assessment;

9 (B) The entity, in coordination with the district, administered a grade 10 assessment during the
10 2007-2008 school year;

11 (C) For the most recent school year in which the entity administered a grade 10 assessment, the
12 entity met the criteria set forth in subsection (2) of this section as in effect for the school year in
13 which the entity administered the assessment; and

14 (D) The entity plans to meet the criteria set forth in subsection (2) of this section as in effect
15 for the school year for which the school district seeks a waiver.

16 (b) A waiver granted by the department under this subsection:

17 (A) Is valid for one school year; and

18 (B) May be renewed each school year.

19 (c) The department shall reimburse a school district for the cost of assessments allowed under
20 this subsection from funds available to the department under ORS 327.008 [(14)] (13).

21 (4) Notwithstanding subsections (1) and (3) of this section:

22 (a) The department may, under rules adopted by the State Board of Education, waive the as-
23 sessment for specific groups of students; and

24 (b) Upon request from a student who is enrolled in a public school operated by a school district
25 or the parent or guardian of the student, the school district shall waive the assessment for the stu-
26 dent.

27 **SECTION 10. Notwithstanding any other law limiting expenditures, the limitation on**
28 **expenditures established by section 6 (2), chapter __, Oregon Laws 2023 (Enrolled House Bill**
29 **5014), for the biennium beginning July 1, 2023, as the maximum limit for payment of ex-**
30 **penditures, other than expenses described in sections 7 and 15, chapter __, Oregon Laws 2023**
31 **(Enrolled House Bill 5014), from fees, moneys or other revenues, including Miscellaneous**
32 **Receipts, but excluding lottery funds, corporate activity tax funds and federal funds, col-**
33 **lected or received by the Department of Education, for operations, is increased by \$3,000,000**
34 **for the purpose of carrying out the provisions of this 2023 Act.**

35 **SECTION 11. This 2023 Act being necessary for the immediate preservation of the public**
36 **peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect**
37 **July 1, 2023.**

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