

# House Bill 4077

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Education for Representative Courtney Neron)

## 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**. The statement includes a measure digest written in compliance with applicable readability standards.

**Digest:** Expands the uses for a fund that is used to pay for the high costs of special education. Establishes a group to help schools to bill Medicaid. Lists the laws that a recovery school must follow. (Flesch Readability Score: 74.8).

Authorizes moneys in the High Cost Disabilities Account to be distributed to school districts that have a community impact that causes disproportionately high costs associated with the provision of special education and related services.

Establishes the School Medicaid Technical Advisory Committee. Establishes the duties and membership of the committee.

Modifies the statutes and rules that are applicable to approved recovery schools.

Takes effect on July 1, 2024.

## A BILL FOR AN ACT

Relating to education; creating new provisions; amending ORS 327.348 and 336.680; and prescribing an effective date.

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

### HIGH COST DISABILITY ACCOUNT

**SECTION 1.** ORS 327.348 is amended to read:

327.348. (1) There is established within the State School Fund a High Cost Disabilities Account.

(2) Each fiscal year, the Department of Education shall distribute moneys from the account to school districts as high cost disabilities grants. A school district may receive moneys from the account if the school district:

(a) Has a resident pupil with a disability for whom the approved costs to the school district of providing special education and related services, as determined under subsection (4) of this section, exceed \$30,000.

**(b) Has a community impact that causes disproportionately high costs associated with the provision of special education and related services, as determined by the department based on identified and quantifiable factors that are beyond the control of the school district and that result in a significantly increased number of pupils qualifying for special education and related services.**

(3) The amount of moneys received by a school district under this section [*for each resident pupil with a disability*] shall equal:

(a) **For distributions made as provided by subsection (2)(a) of this section**, the approved costs, as determined under subsection (4) of this section, incurred by the school district in providing special education and related services to [*the pupil*] **each resident pupil described in subsection**

**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 (2)(a) of this section minus \$30,000.

2 (b) For distributions made as provided by subsection (2)(b) of this section, the approved  
3 costs, as determined under subsection (4) of this section, incurred by the school district in  
4 providing special education and related services to the resident pupils minus any amounts  
5 distributed to the school district as provided by ORS 327.013 (1)(c)(A)(i).

6 (4) The department shall determine the approved costs incurred by a school district in providing  
7 special education and related services to [a pupil] pupils with a disability. The approved costs in-  
8 curred by a school district may include costs incurred by an education service district of providing  
9 special education and related services to the school district through the resolution process described  
10 in ORS 334.175. In determining the approved costs for which a school district may receive moneys  
11 under this section, the department shall consider:

12 (a) How efficiently the special education and related services are provided by the school district;  
13 and

14 (b) The use of available resources by the school district.

15 (5) If the total approved costs for which school districts are seeking moneys from the account  
16 exceed the amount in the account in any fiscal year, the department shall prorate the amount of  
17 moneys available for distribution in the account among those school districts that are eligible for  
18 moneys from the account.

19 (6) The department shall distribute any moneys in the account that are not distributed under  
20 this section in any fiscal year to school districts based on ORS 327.008 and 327.013.

21 (7) The State Board of Education may adopt any rules necessary for the administration of this  
22 section.

23 **SECTION 2. The amendments to ORS 327.348 by section 1 of this 2024 Act apply to dis-**  
24 **tributions of the High Cost Disabilities Account commencing with the 2024-2025 distributions.**

25 **SECTION 3. In addition to and not in lieu of any other appropriation, there is appropri-**  
26 **ated to the Department of Education, for the biennium ending June 30, 2025, out of the**  
27 **General Fund, the amount of \$\_\_\_\_\_, which shall be transferred to the High Cost Disabili-**  
28 **ties Account for purposes of distributions made under ORS 327.348 (3)(b).**

29  
30 **SCHOOL MEDICAID TECHNICAL ADVISORY COMMITTEE**

31  
32 **SECTION 4. (1) The School Medicaid Technical Advisory Committee is established.**

33 **(2) The committee shall:**

34 **(a) Conduct regular reviews of this state’s and other states’ Medicaid state plans, reviews**  
35 **of federal laws and guidance related to Medicaid and reviews of this state’s statutes and ad-**  
36 **ministrative rules related to Medicaid with the goals of:**

37 **(A) Expanding billable services and provider types that are available to school districts**  
38 **to the greatest extent allowable under federal law;**

39 **(B) Maximizing the ability of the school districts to bill Medicaid;**

40 **(C) Removing barriers to Medicaid billing for school districts;**

41 **(D) Analyzing the state’s Medicaid billing methodology to ensure that the needs of school**  
42 **districts are best met; and**

43 **(E) Ensuring that, whenever possible, the state takes advantage of federal expansions**  
44 **related to Medicaid that may impact school districts, including making timely amendments**  
45 **to the state’s Medicaid state plan.**

1       **(b) Recommend statutory or administrative rule changes related to Medicaid and school**  
2 **districts.**

3       **(c) Advise the Oregon Health Authority and the Department of Education on needs and**  
4 **opportunities for technical assistance to, and types of support for, school districts that would**  
5 **improve and increase Medicaid billing by school districts.**

6       **(d) Coordinate efforts with any state-level committees or organizations that address**  
7 **Medicaid billing by school districts.**

8       **(e) Communicate the activities of the committee after each meeting by posting audio**  
9 **recordings and meeting minutes online.**

10       **(3) The committee consists of 22 members appointed by the Governor as follows:**

11       **(a) A representative of the Oregon Health Authority;**

12       **(b) A representative of the Department of Education;**

13       **(c) A representative of a statewide organization that represents education service dis-**  
14 **tricts;**

15       **(d) A representative of a statewide organization that represents school administrators;**

16       **(e) A representative of a statewide organization of school business officials in this state;**

17       **(f) A representative of a statewide organization that primarily represents licensed**  
18 **teachers;**

19       **(g) A representative of a statewide organization that primarily represents classified ed-**  
20 **ucators and educator staff;**

21       **(h) A representative of a statewide organization that represents school boards;**

22       **(i) A representative of a youth behavioral health professional preparation program;**

23       **(j) A school nurse;**

24       **(k) A school psychologist;**

25       **(L) Two school health providers not described in paragraph (j) or (k) of this subsection;**

26       **(m) Seven employees of school districts or education service districts who have expertise**  
27 **in Medicaid billing, technology or policy;**

28       **(n) One parent of a student who attends a public school and who has a physical disability;**  
29 **and**

30       **(o) One parent of a student who attends a public school and who has a developmental**  
31 **disability.**

32       **(4) The term of office of each member of the committee is four years, but a member**  
33 **serves at the pleasure of the Governor. Before the expiration of the term of a member, the**  
34 **Governor shall appoint a successor whose term begins on January 1 next following. A**  
35 **member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall**  
36 **make an appointment to become immediately effective for the unexpired term.**

37       **(5) A majority of the members of the committee constitutes a quorum for the transaction**  
38 **of business.**

39       **(6) Official action by the committee requires the approval of a majority of the members**  
40 **of the committee.**

41       **(7) The members who represent the Oregon Health Authority and the Department of**  
42 **Education shall be cochairs of the committee.**

43       **(8) The committee shall meet at times and places specified by the call of the cochairs or**  
44 **of a majority of the members of the committee, provided that the committee meets at least**  
45 **twice a year.**

1 (9) The committee may adopt rules necessary for the operation of the committee.

2 (10) The Oregon Health Authority and the Department of Education shall jointly provide  
3 staff support to the committee.

4 (11) Members of the committee are not entitled to compensation, but may be reimbursed  
5 for actual and necessary travel and other expenses incurred by them in the performance of  
6 their official duties in the manner and amounts provided for in ORS 292.495.

7 (12) All agencies of state government, as defined in ORS 174.111, are directed to assist  
8 the committee in the performance of the duties of the committee and, to the extent per-  
9 mitted by law relating to confidentiality, to furnish information and advice the members of  
10 the committee consider necessary to perform their duties.

11  
12 **RECOVERY SCHOOLS**

13  
14 **SECTION 5.** ORS 336.680 is amended to read:

15 336.680. (1) As used in this section, "approved recovery school" means a school that is under  
16 an agreement with the Department of Education to provide students enrolled in the school with a  
17 holistic approach to:

18 (a) Educational services for grades 9 through 12; and

19 (b) Health care services related to recovery from substance use disorders.

20 (2) The department shall provide or cause to be provided appropriate education for students  
21 enrolled in an approved recovery school. For the purpose of paying the costs of providing education  
22 to students enrolled in an approved recovery school, the Superintendent of Public Instruction shall  
23 make the following:

24 (a) Payments from amounts available from the State School Fund under ORS 327.029.

25 (b) Payments from the Statewide Education Initiatives Account, as provided by rule adopted by  
26 the State Board of Education in collaboration with the advisory committee convened under ORS  
27 336.685. The rules adopted as provided by this paragraph may include a minimum amount, a maxi-  
28 mum amount or both for approved recovery schools.

29 (3) The Superintendent of Public Instruction may contract with a school district, an education  
30 service district or a public charter school to provide or cause to be provided appropriate education  
31 to students enrolled in an approved recovery school. Unless otherwise specified, any educational  
32 services provided under a contract entered into under this subsection shall be paid as described in  
33 this section and not by any other state moneys distributed based on average daily membership that  
34 are available to the school district, education service district or public charter school for the pur-  
35 pose of providing educational services.

36 (4) The State Board of Education shall adopt by rule the standards for a recovery school to  
37 become and operate as an approved recovery school. The standards must provide that:

38 (a) The recovery school must align, to the extent identified by the board, with standards for  
39 accreditation established by a nonprofit accrediting organization composed of representatives of re-  
40 recovery schools and individuals who support the growth of recovery schools. The standards must in-  
41 clude requirements that:

42 (A) The recovery school, in compliance with timelines established by the department, be ac-  
43 credited by a nonprofit accrediting organization that establishes standards for recovery schools.  
44 Nothing in this subparagraph requires the recovery school to be accredited at the time the super-  
45 intendent first enters into a contract with the recovery school.

1 (B) Student enrollment in the recovery school is voluntary. No school district or state or local  
 2 agency may compel or otherwise require a student to enroll in a recovery school. Students enrolled  
 3 in an approved recovery school may not be counted in determining the number of pupils in average  
 4 daily membership for purposes of ORS 334.175 (5).

5 (C) All students who reside in this state and who meet the eligibility criteria established under  
 6 subsection (8) of this section may enroll in an approved recovery school if space is available. If  
 7 space is not available, the approved recovery school may prioritize for enrollment student groups  
 8 identified in ORS 327.180 (2)(b).

9 (D) The school district, education service district or public charter school with which the de-  
 10 partment has entered into a contract for a recovery school must agree to award high school diplo-  
 11 mas, modified diplomas, extended diplomas and alternative certificates as provided by ORS 329.451  
 12 and 339.877. An entity that awards high school diplomas as provided by this subparagraph:

13 (i) May not impose requirements for a high school diploma that are in addition to the require-  
 14 ments prescribed by ORS 329.451 (2)(a) or by rule of the State Board of Education; and

15 (ii) Must accept any credits previously earned by students in another school or educational  
 16 program in this state and apply those credits toward the requirements prescribed by ORS 329.451  
 17 (2)(a) or by rule of the State Board of Education.

18 *[(E) Except as provided by subparagraph (F) of this paragraph, the recovery school must satisfy*  
 19 *the same laws that apply to public charter schools under ORS 338.115.]*

20 **(E) Statutes and rules that apply only to school district boards, school districts or other**  
 21 **public schools do not apply to approved recovery schools, except that the following laws do**  
 22 **apply to approved recovery schools:**

- 23 **(i) Federal law;**
- 24 **(ii) ORS 30.260 to 30.300 (tort claims);**
- 25 **(iii) ORS 192.311 to 192.478 (public records law);**
- 26 **(iv) ORS 192.610 to 192.705 (public meetings law);**
- 27 **(v) ORS chapters 279A, 279B and 279C (Public Contracting Code);**
- 28 **(vi) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);**
- 29 **(vii) ORS 326.565, 326.575 and 326.580 (student records);**
- 30 **(viii) ORS 181A.195, 326.603, 326.607 and 342.223 (criminal records checks);**
- 31 **(ix) ORS 329.045 (academic content standards and instruction);**
- 32 **(x) ORS 329.451 (high school diploma, modified diploma, extended diploma and certificate**  
 33 **of attendance);**
- 34 **(xi) ORS 329.496 (physical education);**
- 35 **(xii) The statewide assessment system developed by the Department of Education for**  
 36 **mathematics, science and language arts under ORS 329.485 (2);**
- 37 **(xiii) ORS 336.840 (use of personal electronic devices);**
- 38 **(xiv) ORS 337.150 (textbooks);**
- 39 **(xv) ORS 339.119 (consideration for educational services);**
- 40 **(xvi) ORS 339.141, 339.147 and 339.155 (tuition and fees);**
- 41 **(xvii) ORS 339.250 (9) (prohibition on infliction of corporal punishment);**
- 42 **(xviii) ORS 339.326 (notice concerning students subject to juvenile court petitions);**
- 43 **(xix) ORS 339.370 to 339.400 (reporting of suspected abuse and suspected sexual conduct);**
- 44 **(xx) ORS 342.856 (core teaching standards);**
- 45 **(xxi) ORS chapter 657 (Employment Department Law);**

1       **(xxii) ORS 332.505 (2), 659.850, 659.855 and 659.860 (discrimination);**

2       **(xxiii) Any statute or rule that establishes requirements for instructional time provided**  
3 **by a school during each day or during a year;**

4       **(xxiv) Statutes and rules that expressly apply to recovery schools;**

5       **(xxv) Health and safety statutes and rules; and**

6       **(xxvi) Statutes and rules that expressly apply only to school district boards, school dis-**  
7 **tricts and other public schools but that apply to an approved recovery school under the**  
8 **contract for the approved recovery school.**

9       (F) All administrators and teachers at the recovery school must be licensed by the Teacher  
10 Standards and Practices Commission.

11       **(G) An approved recovery school may:**

12       **(i) Enter into contracts and lease facilities and services from a school district, an edu-**  
13 **cation service district, a public university listed in ORS 352.002, a governmental unit or any**  
14 **person or legal entity.**

15       **(ii) Receive and accept gifts, grants and donations from any source for expenditure to**  
16 **carry out the lawful functions of the school.**

17       **(iii) Receive services from an education service district in the same manner as other**  
18 **public schools in the school district in which the approved recovery school is located.**

19       **(H) An approved recovery school must comply with the requirements of the uniform**  
20 **budget and accounting system adopted by rule of the State Board of Education under ORS**  
21 **327.511.**

22       (b) Recovery schools will be approved, to the greatest extent practicable, in a manner that:

23       (A) Represents a geographic distribution across this state; and

24       (B) Takes into consideration the needs for services by the community in which the recovery  
25 school would be located.

26       (5) Any school that provides the services of a recovery school may enter into a contract with  
27 the superintendent to become an approved recovery school, including schools already providing the  
28 services of a recovery school and schools that are proposing to provide the services of a recovery  
29 school.

30       (6) An approved recovery school may enter into agreements with other entities, including  
31 community-based organizations and federally recognized tribes of this state, for the purposes of  
32 providing educational and health care services to students enrolled in the approved recovery school.

33       (7)(a) The department shall be responsible for:

34       (A) Identifying, locating and evaluating students enrolled in an approved recovery school who  
35 may be in need of special education and related services; and

36       (B) Ensuring that eligible students receive special education and related services.

37       (b) For the purpose of this subsection, the department may enter into a contract with a school  
38 district or an education service district.

39       (8) The department shall establish eligibility criteria for students to enroll in an approved re-  
40covery school, based on input from the advisory committee convened under ORS 336.685 and based  
41on research from a nonprofit organization composed of representatives of recovery schools and in-  
42dividuals who support the growth of recovery schools and other relevant organizations.

43       (9) For the purposes of administering this section:

44       (a) The State Board of Education shall adopt any necessary rules.

45       (b) The department shall collaborate with the Oregon Health Authority, the Youth Development

1 Division, the Alcohol and Drug Policy Commission, the Oregon Youth Authority, the Department  
2 of Human Services and local public health and mental health authorities or providers and shall co-  
3 ordinate, to the greatest extent practicable, funding of services provided in relation to approved  
4 recovery schools.

5 (10) Each biennium, the Department of Education shall prepare a report on the progress, suc-  
6 cesses and challenges of approved recovery schools and submit that report to:

7 (a) The interim committees of the Legislative Assembly related to education; and

8 (b) The advisory committee convened under ORS 336.685.

9  
10 **MISCELLANEOUS**

11  
12 **SECTION 6. The unit captions used in this 2024 Act are provided only for the convenience**  
13 **of the reader and do not become part of the statutory law of this state or express any leg-**  
14 **islative intent in the enactment of this 2024 Act.**

15 **SECTION 7. This 2024 Act takes effect July 1, 2024.**