

**Enrolled**  
**House Bill 2040**

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Education)

CHAPTER .....

AN ACT

Relating to education; creating new provisions; amending ORS 327.006, 327.008, 327.019, 327.125, 327.137, 339.129 and 340.045; repealing ORS 327.355, 327.357 and 327.360; and declaring an emergency.

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

**SECTION 1.** Sections 2 to 6 of this 2007 Act are added to and made a part of ORS 336.615 to 336.665.

**SECTION 2.** As used in sections 2 to 6 of this 2007 Act:

(1) "Qualified homeschooled child" means a child who is registered as a child who is taught by a parent, legal guardian or private teacher under ORS 339.035 and who is:

(a) A resident of a county with a population of more than 320,000 but less than 325,000 according to the federal decennial census conducted in 2000; or

(b) A resident of a school district that contracted with a qualified private alternative education program prior to the 2007-2008 school year.

(2) "Qualified private alternative education program" means a private alternative education program that:

(a) First contracted with a qualified school district beginning with the 1996-1997 school year, and has continued to have a contract with a qualified school district through the 2006-2007 school year, to provide services to homeschooled students; and

(b) Is in compliance with ORS 336.615 to 336.665 and rules adopted by the State Board of Education that relate to private alternative education programs.

(3) "Qualified school district" means a school district:

(a) With an administrative office located in the county seat of a county with a population of more than 320,000 but less than 325,000 according to the federal decennial census conducted in 2000; and

(b) That had a contract with a qualified private alternative education program during the 2006-2007 school year.

**SECTION 3.** (1) A qualified school district may contract with a qualified private alternative education program to provide services to homeschooled children. A qualified school district that contracts with a program under this section shall evaluate and monitor the program.

(2) Other school districts may place students in a qualified private alternative education program. Except as provided in subsection (1) of this section, if a school district places a

student in a program under this subsection, the school district is not required to evaluate and monitor the program.

(3) When necessary to meet a qualified homeschooled child's educational needs and interests, the parent or legal guardian with the approval of the resident district and the attending district may enroll the child in a qualified private alternative education program. If the child is determined to be eligible for special education under ORS 343.221 to 343.236 and 343.261 to 343.295, the program must be approved by the Department of Education prior to the placement of the student in the program.

(4) As a condition of enrolling in a qualified private alternative education program:

(a) A qualified homeschooled child may not be required to have previously attended a public school;

(b) A school district is not required to find that the student is not benefiting, has not benefited or will not benefit from attendance in public school or other alternative education programs; and

(c) A school district is not required to conduct an assessment of the child in order to find that the program would meet the child's educational needs and interests.

**SECTION 4.** Notwithstanding section 3 (3) of this 2007 Act, if a qualified homeschooled child was enrolled in a qualified private alternative education program prior to the effective date of this 2007 Act, additional approval from the resident or attending school district is not required and the qualified homeschooled child may continue to attend the program.

**SECTION 5.** (1) A qualified private alternative education program shall receive funding from a qualified school district that has entered into a contract with the program. The funding shall be calculated based on this section and section 6 of this 2007 Act.

(2) A qualified private alternative education program may receive funding for a qualified homeschooled child only if the child enrolls in one or more the following courses that meet the academic content standards adopted by the State Board of Education for that course:

- (a) Mathematics.
- (b) Science.
- (c) English.
- (d) History.
- (e) Geography.
- (f) Economics.
- (g) Civics.
- (h) Physical education.
- (i) Health.
- (j) The arts.
- (k) Second languages.
- (L) Computer technology.

(3)(a) Except as provided in paragraph (b) of this subsection, for purposes of receiving funding for a qualified private alternative education program from the State School Fund, a qualified school district that enters into a contract with a program under section 3 of this 2007 Act shall be considered to be the resident district of a qualified homeschooled child who attends the program.

(b) Paragraph (a) of this subsection does not apply to a qualified homeschooled child who is receiving special education and related services.

**SECTION 6.** (1) As used in this section:

(a) "ADM" means the average daily membership as defined in ORS 327.006.

(b) "Small group" means instruction provided in a qualified private alternative education program approved by a qualified school district to a class of two to five students.

(c) "Intermediate group" means instruction provided in a qualified private alternative education program approved by a qualified school district to a class of six to 15 students.

(d) "Large group" means instruction provided in a qualified private alternative education program approved by a qualified school district to a class of 16 or more students.

(e) "Tutorial" means instruction provided in a qualified private alternative education program approved by a qualified school district to a class of one student.

(2) The State Board of Education shall adopt by rule a formula for the calculation of the amount of funding to be received by a qualified private alternative education program. The formula shall be based on:

(a) The ADM of the program;

(b) Whether the program operates full-time or part-time; and

(c) Whether instruction in the program is given as tutorials or in small groups, intermediate groups or large groups.

**SECTION 7.** Sections 5 and 6 of this 2007 Act first apply to State School Fund distributions commencing with the 2007-2008 distribution.

**SECTION 8.** ORS 327.019 is amended to read:

327.019. (1) As used in this section:

(a) "Education service district extended ADMw" means the sum of the extended ADMw of the component school districts of the education service district as computed under ORS 327.013.

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

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

(B) The amount of property taxes actually received by the district including penalties and interest on taxes;

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

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

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

(3)(a) Each fiscal year, the superintendent shall calculate the total amount appropriated or allocated to the State School Fund and available for distribution to school districts, education service districts and programs + total amount of local revenues of all school districts, computed as provided in ORS 327.013, + total amount of local revenues of all education service districts. The superintendent may not include in the calculation under this paragraph amounts recovered by the Department of Education from the State School Fund under ORS 343.243.

(b) The superintendent shall multiply the amount calculated under paragraph (a) of this subsection by 95.25 percent.

(c) Based on the amount calculated under paragraph (b) of this subsection, the superintendent shall calculate a funding percentage to distribute as nearly as practicable under ORS 327.006 to 327.133, 327.348, 327.355, 327.357 and 327.360 the total amount calculated under paragraph (b) of this subsection as school district general purpose grants, facility grants, high cost disabilities grants and transportation grants to school districts.

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

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

(a) The total amount calculated under subsection (3)(d) of this section for the component school districts of the education service district  $\times$  (4.75  $\div$  95.25); or

(b) [\$950,000] **\$1 million.**

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

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

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

(7) Notwithstanding subsections (5) and (6) of this section[,];

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

**(b) The State School Fund grant of an education service district shall be in an amount that, when combined with the local revenues of the education service district, equals \$1 million or more.**

(8) An education service district shall distribute to its component school districts any amount of local revenues of the education service district that is greater than the general services grant. The amount that each component school district receives under this subsection shall be prorated based on the district extended ADMw of each school district.

**SECTION 9. The amendments to ORS 327.019 by section 8 of this 2007 Act apply to State School Fund distributions commencing with the 2007-2008 distribution.**

**SECTION 10. (1) During the 2007-2009 biennium, the legislative interim committees on revenue shall conduct a study of the adequacy of funding of small school districts and small education service districts. The committees shall examine:**

**(a) The relationship between small school districts and education service districts;**

**(b) Whether the additional amounts received by small school districts that are attributable to the additional amount added to the ADMw of those districts under ORS 327.013 (7)(a)(F) and 327.077 and the amount awarded as grants under ORS 327.357, when combined with other funding, are adequate to provide sufficient funding for those small school districts;**

**(c) What types of small school districts are not being provided adequate funding; and**

**(d) The long term effects of not providing small school districts and small education service districts with adequate funding.**

**(2) Based on the study, the legislative interim committees on revenue shall make recommendations to the Seventy-fifth Legislative Assembly and may pre-session file proposed legislation that would implement the recommendations.**

**SECTION 11. ORS 327.006 is amended to read:**

327.006. As used in ORS 327.006 to 327.133, 327.348[, 327.355, 327.357, 327.360] and 327.731:

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

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

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

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

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

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

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

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

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

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

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

(4) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers of the Portland, Oregon, Standard Metropolitan Statistical Area, as compiled by the United States Department of Labor, Bureau of Labor Statistics.

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

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

(7)(a) "Resident pupil" means any pupil:

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

(B) Whose legal residence is not within the boundaries of the district reporting the pupil but attends school in the district with the written consent of the affected school district boards.

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

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

(d) "Resident pupil" includes a pupil admitted to a school district under ORS 339.115 (7).

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

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

**SECTION 12.** ORS 327.008, as amended by section 6a, chapter 803, Oregon Laws 2005, is amended to read:

327.008. (1) There is established a State School Fund in the General Fund. The fund shall consist of moneys appropriated by the Legislative Assembly and moneys transferred from the Education Stability Fund. The State School Fund is continuously appropriated to the Department of Education for the purposes of ORS 327.006 to 327.077, 327.095, 327.099, 327.101, 327.125, 327.137, 327.348, [327.355, 327.357, 327.360,] 336.575, 336.580, 336.635, 342.173, 343.243, 343.533 and 343.961.

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

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

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

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

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

(7) The total amount of the State School Fund that is distributed as facility grants may not exceed \$25 million in any biennium. If the total amount to be distributed as facility grants exceeds this limitation, the Department of Education shall prorate the amount of funds available for facility grants among those school districts that qualified for a facility grant.

(8) Each fiscal year, the Department of Education shall transfer the amount of \$12 million from the State School Fund to the High Cost Disabilities Account established in ORS 327.348.

[9] *Each fiscal year, the Department of Education shall transfer the amount of \$2.5 million from the State School Fund to the Small School District Supplement Fund established in ORS 327.360.*

**SECTION 13.** ORS 327.019, as amended by section 8 of this 2007 Act, is amended to read:

327.019. (1) As used in this section:

(a) "Education service district extended ADMw" means the sum of the extended ADMw of the component school districts of the education service district as computed under ORS 327.013.

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

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

(B) The amount of property taxes actually received by the district including penalties and interest on taxes;

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

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

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

(3)(a) Each fiscal year, the superintendent shall calculate the total amount appropriated or allocated to the State School Fund and available for distribution to school districts, education service districts and programs + total amount of local revenues of all school districts, computed as provided in ORS 327.013, + total amount of local revenues of all education service districts. The superintendent may not include in the calculation under this paragraph amounts recovered by the Department of Education from the State School Fund under ORS 343.243.

(b) The superintendent shall multiply the amount calculated under paragraph (a) of this subsection by 95.25 percent.

(c) Based on the amount calculated under paragraph (b) of this subsection, the superintendent shall calculate a funding percentage to distribute as nearly as practicable under ORS 327.006 to 327.133[,] **and** 327.348[, 327.355, 327.357 and 327.360] the total amount calculated under paragraph (b) of this subsection as school district general purpose grants, facility grants, high cost disabilities grants and transportation grants to school districts.

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

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

(a) The total amount calculated under subsection (3)(d) of this section for the component school districts of the education service district  $\times$  (4.75  $\div$  95.25); or

(b) \$1 million.

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

(6)(a) After completing the calculations under subsections (2) to (5) of this section, the Superintendent of Public Instruction shall apportion from the State School Fund to each education service district an amount = (funding percentage  $\times$  general services grant) – local revenues of the education service district.

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

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

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

(b) The State School Fund grant of an education service district shall be in an amount that, when combined with the local revenues of the education service district, equals \$1 million or more.

(8) An education service district shall distribute to its component school districts any amount of local revenues of the education service district that is greater than the general services grant. The amount that each component school district receives under this subsection shall be prorated based on the district extended ADMw of each school district.

**SECTION 14.** ORS 327.125 is amended to read:

327.125. The Superintendent of Public Instruction shall administer the provisions of ORS 327.006 to 327.133, 327.348[, 327.355, 327.357, 327.360] and 327.731. The State Board of Education shall adopt all necessary rules not inconsistent with ORS 327.006 to 327.133, 327.348[, 327.355, 327.357, 327.360] and 327.731 to carry into effect the provisions of those statutes.

**SECTION 15.** ORS 327.137 is amended to read:

327.137. Every common or union high school district shall file a copy of its audit statement with the Department of Education within six months of the end of the fiscal year for which the audit is required. If the audit report, as submitted to the district, fails to provide the detail necessary for the computation required in the administration of ORS 327.006 to 327.133, 327.348, [327.355, 327.357, 327.360,] 327.731, 328.542 and 530.115 and this section, the district shall submit the necessary information on forms provided by the department within the time prescribed for filing the audit in this section. Any district failing to file a copy of its report under this section or ORS 327.133 shall not receive any payments from the State School Fund until such reports are filed.

**SECTION 16.** ORS 339.129 is amended to read:

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

(2) The school district may claim State School Fund reimbursement under ORS 327.006 to 327.133, 327.348[, 327.355, 327.357, 327.360] and 327.731 for each child who is in a local or regional correctional facility.

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

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

(5) As used in this section:

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

(b) "Regional correctional facility" means a regional correctional facility as defined in ORS 169.620.

**SECTION 17.** ORS 340.045 is amended to read:

340.045. (1) An eligible student enrolled in an eligible post-secondary course at an eligible post-secondary institution pursuant to ORS 340.030 shall continue to be considered a resident pupil of the student's school district for purposes of calculation of the State School Fund grant under ORS 327.006 to 327.133, 327.348[, 327.355, 327.357, 327.360] and 327.731.

(2) A school district shall negotiate a financial agreement with any eligible post-secondary institution that accepts a student for enrollment in an eligible post-secondary course pursuant to ORS 340.030 for the payment of actual tuition, fees and other required instructional costs associated with the enrollment of the student in eligible post-secondary courses.

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

(b) Each fiscal year, a school district shall expend per student participating in the Expanded Options Program a minimum of 50 percent of the school district's general purpose grant per extended ADMw. Expenditures that qualify under this paragraph include amounts expended on tuition, fees, textbooks, equipment and materials required for an eligible post-secondary course.

(c) A school district may request a waiver from the Superintendent of Public Instruction or the superintendent's designee of the requirements of paragraph (b) of this subsection. The superintendent or the superintendent's designee shall grant the waiver if:

(A) Compliance with the requirements of paragraph (b) of this subsection would cause the school district extreme financial distress; or

(B) The school district offers dual credit technical preparation programs, such as two-plus-two programs, advanced placement or International Baccalaureate programs and other accelerated college credit programs, and:

(i) The programs offered by the school district serve all qualified applicants; and

(ii) There are no charges to at-risk students.

(4) In addition to any financial agreement entered into under subsection (2) of this section, the resident school district of the eligible student shall enter into an agreement with an eligible post-secondary institution that accepts a student for enrollment in an eligible post-secondary course that is a nontuition course or noncredit course pursuant to ORS 340.030 for the payment of the actual instructional costs associated with the student's attending the eligible post-secondary course at the institution.

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

**SECTION 18.** ORS 327.355, 327.357 and 327.360 are repealed.

**SECTION 19.** The amendments to ORS 327.006, 327.008, 327.019, 327.125, 327.137, 339.129 and 340.045 by sections 11 to 17 of this 2007 Act and the repeal of ORS 327.355, 327.357 and 327.360 by section 18 of this 2007 Act become operative on June 30, 2012.

**SECTION 20.** This 2007 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect July 1, 2007.



**Passed by House June 23, 2007**

**Repassed by House June 26, 2007**

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Chief Clerk of House

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Speaker of House

**Passed by Senate June 25, 2007**

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President of Senate

**Received by Governor:**

.....M,....., 2007

**Approved:**

.....M,....., 2007

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Governor

**Filed in Office of Secretary of State:**

.....M,....., 2007

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Secretary of State