

**A-Engrossed**  
**House Bill 2214**

Ordered by the House May 10  
Including House Amendments dated May 10

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski)

**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.

Directs Legislative Assembly to appropriate to public education programs, funds and agencies amount that is not less than **greater of 61 percent of projected revenues in General Fund [beginning with 2007-2009 biennium] or 110 percent of amount appropriated from prior biennium**. Requires that [subsequent] biennial appropriations for each program, fund or agency be not less than 110 percent of amount appropriated for prior biennium. [Limits amount] **Specifies minimum and maximum amounts** of moneys that may be appropriated to State School Fund.

**Applies to appropriations made for biennia beginning on or after July 1, 2009.**

Directs Legislative Assembly to distribute amount above 10 percent growth to Education Opportunity and Innovation Fund and Education Stability Fund.

Establishes Education Opportunity and Innovation Fund.

[Establishes Prekindergarten Through Grade 12 Successful Schools] **Changes name of School Improvement Fund to School Improvement Account** within Education Opportunity and Innovation Fund. Continuously appropriates moneys in account to Department of Education for grants to school districts.

Establishes Post-Secondary Academic and Workforce Investment Account within Education Opportunity and Innovation Fund. Continuously appropriates moneys in account for distribution for higher education purposes.

Directs Joint Boards of Education to adopt rules for grants awarded from [accounts] **account**.

Directs Oregon Department of Administrative Services to prepare computations and estimates of revenue received and projected revenue.

**Directs Joint Boards of Education to recommend performance measures on accountability and quality for public education programs, funds and agencies.**

Declares emergency, effective July 1, 2007.

**A BILL FOR AN ACT**

1  
2 Relating to education; creating new provisions; amending ORS 291.342, 327.290 and 327.294; appro-  
3 priating money; and declaring an emergency.

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

5 **SECTION 1. As used in section 2 of this 2007 Act:**

6 (1) "Appropriation" means any appropriation, allocation or transfer of moneys made by  
7 law by the Legislative Assembly.

8 (2)(a) "Education enterprise" means the following public education programs, funds and  
9 agencies:

10 (A) Oregon prekindergarten programs;

11 (B) State School Fund;

12 (C) Department of Education;

13 (D) Community College Support Fund;

14 (E) Department of Community Colleges and Workforce Development;

15 (F) Department of Higher Education for the Oregon University System;

**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 (G) Oregon Health and Science University; and

2 (H) Oregon Student Assistance Commission.

3 (b) "Education enterprise" does not include capital construction costs for the programs,  
4 funds and agencies listed in paragraph (a) of this subsection.

5 (3) "Projected revenues in the General Fund" means the projected revenue in the General  
6 Fund for a biennium reported under ORS 291.342 (2)(c).

7 **SECTION 2.** (1) Except as provided in subsections (3) and (4) of this section, the Legis-  
8 lative Assembly shall appropriate to the education enterprise, for the biennium that begins  
9 July 1 of the year in which the regular session of the Legislative Assembly begins, a total  
10 amount of moneys that is not less than the greater of:

11 (a) Sixty-one percent of the projected revenues in the General Fund for that biennium;  
12 or

13 (b) One hundred ten percent of the amount appropriated to the education enterprise for  
14 the biennium prior to the biennium that begins July 1 of the year in which the regular ses-  
15 sion of the Legislative Assembly begins.

16 (2) Except as provided in subsection (3) of this section, the Legislative Assembly shall  
17 appropriate for each program, fund or agency of the education enterprise, for the biennium  
18 that begins July 1 of the year in which the regular session of the Legislative Assembly be-  
19 gins, a total amount of moneys that is not less than 110 percent of the amount appropriated  
20 to that program, fund or agency of the education enterprise for the biennium prior to the  
21 biennium that begins July 1 of the year in which the regular session of the Legislative As-  
22 sembly begins.

23 (3)(a) The Legislative Assembly may not appropriate an amount of moneys for the State  
24 School Fund that, when combined with local revenues as defined in ORS 327.013 and 327.019,  
25 is:

26 (A) Less than 80 percent of the amount of moneys determined to be sufficient for that  
27 biennium by the Quality Education Commission as required by ORS 327.506 (2); or

28 (B) Greater than the amount of moneys determined to be sufficient for that biennium  
29 by the Quality Education Commission as required by ORS 327.506 (2).

30 (b) To meet the requirements of paragraph (a)(A) of this subsection, the Legislative As-  
31 sembly may appropriate an amount of moneys to the State School Fund that is in addition  
32 to the amount required to be appropriated to the education enterprise by subsection (1) of  
33 this section.

34 (4) If an appropriation of an amount of moneys that is equal to 61 percent of the  
35 projected revenues in the General Fund would result in a total appropriation to the education  
36 enterprise that is more than the total of 110 percent of the appropriation for the biennium  
37 that is prior to the biennium that begins July 1 of the year in which the regular session of  
38 the Legislative Assembly begins plus any amount appropriated to the State School Fund un-  
39 der subsection (3)(b) of this section, then the Legislative Assembly shall appropriate an  
40 amount equal to 61 percent of the amount of moneys shown as projected revenues in the  
41 General Fund as follows:

42 (a) To the Education Opportunity and Innovation Fund established in section 6 of this  
43 2007 Act, an amount equal to the amount by which the total appropriation would equal an  
44 amount that is more than the total of 110 percent of the amount appropriated to the educa-  
45 tion enterprise in the prior biennium plus any amount appropriated to the State School Fund

1 under subsection (3)(b) of this section; and

2 (b) To the education enterprise, an amount that is no less than the remainder required  
3 to be appropriated under this subsection.

4 (5) The Governor, when compiling and preparing the budget report required under ORS  
5 291.216, may choose not to meet the appropriation requirements of this section if there has  
6 been a change in state or federal law that:

7 (a) Places a significant restriction on the expenditures of the state for the biennium for  
8 which the budget report is prepared; or

9 (b) Establishes a new requirement that requires significant expenditures by the state to  
10 meet the new requirement for the biennium for which the budget report is prepared.

11 (6) The Legislative Assembly shall review the percentages used in subsections (1) and (2)  
12 of this section to calculate the minimum appropriation amount for the education enterprise  
13 if there has been a change in state or federal law that:

14 (a) Places a significant restriction on the expenditures of the state; or

15 (b) Establishes a new requirement that requires significant expenditures by the state to  
16 meet the new requirement.

17 **SECTION 3.** Section 2 of this 2007 Act applies to appropriations made by the Legislative  
18 Assembly for biennia beginning on or after July 1, 2009.

19 **SECTION 4.** Section 2 of this 2007 Act is amended to read:

20 **Sec. 2.** (1) Except as provided in subsections (3) and (4) of this section, the Legislative Assembly  
21 shall appropriate to the education enterprise, for the biennium that begins July 1 of the year in  
22 which the regular session of the Legislative Assembly begins, a total amount of moneys that is not  
23 less than the higher of:

24 (a) Sixty-one percent of the projected revenues in the General Fund for that biennium; or

25 (b) One hundred ten percent of the amount appropriated to the education enterprise for the  
26 biennium prior to the biennium that begins July 1 of the year in which the regular session of the  
27 Legislative Assembly begins.

28 (2) Except as provided in subsection (3) of this section, the Legislative Assembly shall appro-  
29 priate for each program, fund or agency of the education enterprise, for the biennium that begins  
30 July 1 of the year in which the regular session of the Legislative Assembly begins, a total amount  
31 of moneys that is not less than 110 percent of the amount appropriated to that program, fund or  
32 agency of the education enterprise for the biennium prior to the biennium that begins July 1 of the  
33 year in which the regular session of the Legislative Assembly begins.

34 (3)(a) The Legislative Assembly may not appropriate an amount of moneys for the State School  
35 Fund that, when combined with local revenues as defined in ORS 327.013 and 327.019, is:

36 (A) Less than 80 percent of the amount of moneys determined to be sufficient for that biennium  
37 by the Quality Education Commission as required by ORS 327.506 (2); or

38 (B) Greater than the amount of moneys determined to be sufficient for that biennium by the  
39 Quality Education Commission as required by ORS 327.506 (2).

40 (b) To meet the requirements of paragraph (a)(A) of this subsection, the Legislative Assembly  
41 may appropriate an additional amount of moneys to the State School Fund that is in addition to the  
42 amount required to be appropriated to the education enterprise by subsection (1) of this section.

43 (4) **Except as provided subsection (5) of this section,** if an appropriation of an amount of  
44 moneys that is equal to 61 percent of the projected revenues in the General Fund would result in  
45 a total appropriation to the education enterprise that is more than the total of 110 percent of the

1 appropriation for the biennium that is prior to the biennium that begins July 1 of the year in which  
2 the regular session of the Legislative Assembly begins plus any amount appropriated to the State  
3 School Fund under subsection (3)(b) of this section, then the Legislative Assembly shall appropriate  
4 an amount equal to 61 percent of the amount of moneys shown as projected revenues in the General  
5 Fund as follows:

6 (a) To the Education Opportunity and Innovation Fund established in section 6 of this 2007 Act,  
7 an amount equal to **one-third of** the amount by which the total appropriation would equal an  
8 amount that is more than the total of 110 percent of the amount appropriated to the education en-  
9 terprise in the prior biennium plus any amount appropriated to the State School Fund under sub-  
10 section (3)(b) of this section; *[and]*

11 **(b) To the Education Stability Fund, an amount equal to two-thirds of the amount by**  
12 **which the total appropriation would equal an amount that is more than the total of 110 per-**  
13 **cent of the amount appropriated to the education enterprise in the prior biennium plus any**  
14 **amount appropriated to the State School Fund under subsection (3)(b) of this section; and**

15 *[(b)]* (c) To the education enterprise, an amount that is no less than the remainder required to  
16 be appropriated under this subsection.

17 **(5) If the amount in the Education Stability Fund meets the cap placed on the fund by**  
18 **section 4 (5), Article XV of the Oregon Constitution, then the Legislative Assembly shall**  
19 **appropriate to the Education Opportunity and Innovation Fund any moneys in excess of the**  
20 **cap that would have been appropriated under subsection (4)(b) of this section if the amount**  
21 **had not exceeded the cap.**

22 *[(5)]* (6) The Governor, when compiling and preparing the budget report required under ORS  
23 291.216, may choose not to meet the appropriation requirements of this section if there has been a  
24 change in state or federal law that:

25 (a) Places a significant restriction on the expenditures of the state for the biennium for which  
26 the budget report is prepared; or

27 (b) Establishes a new requirement that requires significant expenditures by the state to meet the  
28 new requirement for the biennium for which the budget report is prepared.

29 *[(6)]* (7) The Legislative Assembly shall review the percentages used in subsections (1) and (2)  
30 of this section to calculate the minimum appropriation amount for the education enterprise if there  
31 has been a change in state or federal law that:

32 (a) Places a significant restriction on the expenditures of the state; or

33 (b) Establishes a new requirement that requires significant expenditures by the state to meet the  
34 new requirement.

35 **SECTION 5. (1) The amendments to section 2 of this 2007 Act by section 4 of this 2007**  
36 **Act become operative on July 1, 2011.**

37 **(2) Section 2 of this 2007 Act, as amended by section 4 of this 2007 Act, applies to ap-**  
38 **propriations made by the Legislative Assembly for biennia beginning on or after July 1, 2011.**

39 **SECTION 6. (1) The Education Opportunity and Innovation Fund is established in the**  
40 **State Treasury, separate and distinct from the General Fund. The Education Opportunity**  
41 **and Innovation Fund shall consist of:**

42 (a) **The School Improvement Account established in ORS 327.294; and**

43 (b) **The Post-Secondary Academic and Workforce Investment Account established in**  
44 **section 7 of this 2007 Act.**

45 **(2)(a) Seventy-seven percent of the moneys in the Education Opportunity and Innovation**

1 **Fund shall be deposited in the School Improvement Account.**

2 (b) **Twenty-three percent of the moneys in the Education Opportunity and Innovation**  
3 **Fund shall be deposited in the Post-Secondary Academic and Workforce Investment Account.**

4 **SECTION 7. (1) The Post-Secondary Academic and Workforce Investment Account is**  
5 **established in the State Treasury and shall be accounted for as a subaccount of the Educa-**  
6 **tion Opportunity and Innovation Fund. Interest earned by the account shall be credited to**  
7 **the account.**

8 (2)(a) **Forty-four percent of the moneys in the Post-Secondary Academic and Workforce**  
9 **Investment Account is continuously appropriated to the Department of Higher Education for**  
10 **distribution as strategic investments as provided in section 8 of this 2007 Act.**

11 (b) **Thirty-three percent of the moneys in the Post-Secondary Academic and Workforce**  
12 **Investment Account is continuously appropriated to the Department of Community Colleges**  
13 **and Workforce Development for distribution as strategic investments as provided in section**  
14 **8 of this 2007 Act.**

15 (c) **Twenty percent of the moneys in the Post-Secondary Academic and Workforce In-**  
16 **vestment Account is continuously appropriated to the Oregon Student Assistance Commis-**  
17 **sion for distribution as Oregon Opportunity Grants under ORS 348.260.**

18 (d) **Three percent of the moneys in the Post-Secondary Academic and Workforce In-**  
19 **vestment Account is continuously appropriated to the Oregon Department of Administrative**  
20 **Services for allocation to the Oregon Health and Science University.**

21 (3) **Any moneys in the account that are not distributed in any biennium shall be retained**  
22 **in the account and may be distributed in the next biennium.**

23 **SECTION 8. (1) Pursuant to rules adopted by the Joint Boards of Education, the De-**  
24 **partment of Community Colleges and Workforce Development and the Department of Higher**  
25 **Education shall administer strategic investments in community colleges and state insti-**  
26 **tutions of higher education listed in ORS 352.002 from funds allocated to the departments**  
27 **from the Post-Secondary Academic and Workforce Investment Account.**

28 (2) **The departments shall make strategic investments under this section by distributing**  
29 **moneys to community colleges and state institutions of higher education.**

30 (3) **The Joint Boards of Education shall adopt rules for the administration of this section.**  
31 **The rules shall include activities for which a community college or state institution of higher**  
32 **education may expend moneys received under this section.**

33 (4)(a) **Each fiscal year, the Department of Community Colleges and Workforce Develop-**  
34 **ment shall report to the Emergency Board or the Joint Committee on Ways and Means on**  
35 **the strategic investments made in community colleges under this section during that fiscal**  
36 **year.**

37 (b) **Each fiscal year, the Department of Higher Education shall report to the Emergency**  
38 **Board or the Joint Committee on Ways and Means on the strategic investments made in**  
39 **state institutions of higher education under this section during that fiscal year.**

40 **SECTION 9. ORS 327.290 is amended to read:**

41 327.290. The Legislative Assembly finds that:

42 (1) **The state has an interest in ensuring that public resources for primary and secondary**  
43 **schools are used to achieve the outcomes established under the Oregon Educational Act for the 21st**  
44 **Century in ORS chapter 329.**

45 (2) **To achieve that purpose, the School Improvement [*Fund*] **Account** is established so the state**

1 may support activities directly related to increases in student achievement while still allowing  
2 school districts flexibility in determining the specific activities necessary to support students.

3 (3) It is the intent of the state in establishing the School Improvement [*Fund*] **Account** to link  
4 these activities to the recommendations of the Quality Education Commission established under  
5 Executive Order 99-16 and the recommendations of the Quality Education Commission established  
6 under ORS 327.500.

7 **SECTION 10.** ORS 327.294 is amended to read:

8 327.294. (1) [*There is established*] The School Improvement [*Fund*] **Account**[, *separate and dis-*  
9 *tinguish from the General Fund*] **is established in the State Treasury and shall be accounted for**  
10 **as a subaccount of the Education Opportunity and Innovation Fund.** Interest earned by the  
11 School Improvement [*Fund*] **Account** shall be credited to the [*fund*] **account.** Any moneys in the  
12 [*fund*] **account** that are not distributed by the Department of Education in any fiscal year shall be  
13 retained in the [*fund*] **account** and may be distributed in the next fiscal year.

14 (2) The moneys in the [*fund*] **account** are continuously appropriated to the Department of Edu-  
15 cation for purposes of the grant program created by ORS 327.297.

16 (3) **The amount of moneys distributed from the account by the Department of Education**  
17 **in any biennium, when added to the sum of the amount of moneys appropriated for that**  
18 **biennium to the State School Fund by the Legislative Assembly plus local revenues as defined**  
19 **in ORS 327.013 and 327.019, may not exceed the amount of moneys determined to be sufficient**  
20 **for that biennium by the Quality Education Commission as required by ORS 327.506 (2).**

21 **SECTION 11.** ORS 291.342 is amended to read:

22 291.342. (1) By August 15 of each year, but not earlier than 90 days from the end of the regular  
23 session, if any, of the Legislative Assembly held in that calendar year, the Oregon Department of  
24 Administrative Services, with the assistance of the Department of Revenue, shall:

25 (a) Ascertain by computation and estimate the total amount of revenue available for state pur-  
26 poses for the current fiscal year; and

27 (b) Apportion the state tax levy on property, if any, among the several counties in the manner  
28 provided in ORS 291.445.

29 (2) In addition to the requirement in subsection (1) of this section, **for purposes of determining**  
30 **the appropriation amounts necessary to meet the requirements of section 2 of this 2007 Act**  
31 **and for determining the total amount of revenue available to make those appropriations,** the  
32 Oregon Department of Administrative Services with the assistance of the Department of Revenue  
33 shall for each calendar quarter of the year ascertain by computation and estimate:

34 (a) The total amount of revenue available for state purposes for the current [*fiscal year, as well*  
35 *as*] **biennium and the next biennium;**

36 (b) The **actual** amount of revenue received quarterly, cumulated throughout the biennium[,  
37 *and*]; **and**

38 (c) **The projected total amount of revenue to be placed in the General Fund and available**  
39 **for the current and next biennia.**

40 (3) **The Oregon Department of Administrative Services shall** report [*its estimate*] **the com-**  
41 **putations and estimates prepared under subsection (2) of this section** to the Legislative Re-  
42 venue Officer and to the Emergency Board[,] or, if the Legislative Assembly is in session, to the  
43 Joint Committee on Ways and Means.

44 [(3)] (4) In carrying out its duties under subsection (2) of this section, the Oregon Department  
45 of Administrative Services shall issue quarterly a statement setting forth the methodology and as-

