

# House Bill 2214

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Presession 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 **as introduced**.

Directs Legislative Assembly to appropriate to public education programs, funds and agencies amount that is not less than 61 percent of projected revenues in General Fund beginning with 2007-2009 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 of moneys that may be appropriated to State School Fund.

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 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.

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

Declares emergency, effective July 1, 2007.

## A BILL FOR AN ACT

1  
2 Relating to education; creating new provisions; amending ORS 291.342; appropriating money; and  
3 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;

16 (G) Oregon Health and Science University; and

17 (H) Oregon Student Assistance Commission.

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

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

**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       **SECTION 2.** (1) Except as provided in subsections (3) and (4) of this section, the Legis-  
 2       lative Assembly shall appropriate to the education enterprise, for the biennium that begins  
 3       July 1 of the year in which the regular session of the Legislative Assembly begins, a total  
 4       amount of moneys that is not less than 61 percent of the projected revenues in the General  
 5       Fund for that biennium.

6       (2) Except as provided in subsection (3) of this section, the Legislative Assembly shall  
 7       appropriate for each program, fund or agency of the education enterprise, for the biennium  
 8       that begins July 1 of the year in which the regular session of the Legislative Assembly be-  
 9       gins, a total amount of moneys that is not less than 110 percent of the amount appropriated  
 10      to that program, fund or agency of the education enterprise for the biennium prior to the  
 11      biennium that begins July 1 of the year in which the regular session of the Legislative As-  
 12      sembly begins.

13      (3) The Legislative Assembly may not appropriate an amount of moneys for the State  
 14      School Fund that is greater than the amount of moneys determined to be sufficient for that  
 15      biennium by the Quality Education Commission as required by ORS 327.506 (2).

16      (4) If an appropriation of an amount of moneys that is equal to 61 percent of the  
 17      projected revenues in the General Fund would result in a total appropriation to the education  
 18      enterprise that is more than 110 percent of the appropriation for the biennium that is prior  
 19      to the biennium that begins July 1 of the year in which the regular session of the Legislative  
 20      Assembly begins, then the Legislative Assembly shall appropriate an amount equal to 61  
 21      percent of the amount of moneys shown as projected revenues in the General Fund as fol-  
 22      lows:

23      (a) To the Education Opportunity and Innovation Fund established in section 6 of this  
 24      2007 Act, an amount equal to the amount by which the total appropriation would equal an  
 25      amount that is more than 110 percent of the amount appropriated to the education enter-  
 26      prise in the prior biennium; and

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

29      (5) The Governor, when compiling and preparing the budget report required under ORS  
 30      291.216, may choose not to meet the appropriation requirements of this section if there has  
 31      been a change in state or federal law that:

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

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

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

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

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

42      **SECTION 3.** (1) Section 2 of this 2007 Act applies to appropriations made by the Legisla-  
 43      tive Assembly for biennia beginning on or after July 1, 2007.

44      (2) Notwithstanding section 2 of this 2007 Act, for purposes of determining the amount  
 45      of the appropriation to the State School Fund that is necessary to meet the requirements

1 of section 2 (2) of this 2007 Act for the biennium beginning July 1, 2007, the amount of  
 2 \$5,360,000,000 shall be used as the appropriation amount for the State School Fund for the  
 3 biennium beginning July 1, 2005.

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

5 **Sec. 2.** (1) Except as provided in subsections (3) and (4) of this section, the Legislative Assembly  
 6 shall appropriate to the education enterprise, for the biennium that begins July 1 of the year in  
 7 which the regular session of the Legislative Assembly begins, a total amount of moneys that is not  
 8 less than 61 percent of the projected revenues in the General Fund for that biennium.

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

15 (3) The Legislative Assembly may not appropriate an amount of moneys for the State School  
 16 Fund that is greater than the amount of moneys determined to be sufficient for that biennium by the  
 17 Quality Education Commission as required by ORS 327.506 (2).

18 (4) **Except as provided in subsection (5) of this section,** if an appropriation of an amount of  
 19 moneys that is equal to 61 percent of the projected revenues in the General Fund would result in  
 20 a total appropriation to the education enterprise that is more than 110 percent of the appropriation  
 21 for the biennium that is prior to the biennium that begins July 1 of the year in which the regular  
 22 session of the Legislative Assembly begins, then the Legislative Assembly shall appropriate an  
 23 amount equal to 61 percent of the amount of moneys shown as projected revenues in the General  
 24 Fund as follows:

25 (a) To the Education Opportunity and Innovation Fund established in section 6 of this 2007 Act,  
 26 an amount equal to **one-third of** the amount by which the total appropriation would equal an  
 27 amount that is more than 110 percent of the amount appropriated to the education enterprise in the  
 28 prior biennium;

29 **(b) To the Education Stability Fund, an amount equal to two-thirds of the amount by**  
 30 **which the appropriation would equal an amount that is more than 110 percent of the amount**  
 31 **appropriated to the education enterprise in the prior biennium; and**

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

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

39 *[(5)]* (6) The Governor, when compiling and preparing the budget report required under ORS  
 40 291.216, may choose not to meet the appropriation requirements of this section if there has been a  
 41 change in state or federal law that:

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

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

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

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

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

7        **SECTION 5.** The amendments to section 2 of this 2007 Act by section 4 of this 2007 Act  
 8 become operative on July 1, 2009.

9        **SECTION 6.** (1) The Education Opportunity and Innovation Fund is established in the  
 10 State Treasury, separate and distinct from the General Fund.

11        (2)(a) The Prekindergarten Through Grade 12 Successful Schools Account is established  
 12 as a subaccount of the Education Opportunity and Innovation Fund. Seventy-seven percent  
 13 of the moneys in the Education Opportunity and Innovation Fund shall be deposited in the  
 14 Prekindergarten Through Grade 12 Successful Schools Account.

15        (b) All moneys in the Prekindergarten Through Grade 12 Successful Schools Account are  
 16 continuously appropriated to the Department of Education for distribution as grants to  
 17 school districts as provided in section 9 of this 2007 Act.

18        (3)(a) The Post-Secondary Academic and Workforce Investment Account is established  
 19 as a subaccount of the Education Opportunity and Innovation Fund. Twenty-three percent  
 20 of the moneys in the Education Opportunity and Innovation Fund shall be deposited in the  
 21 Post-Secondary Academic and Workforce Investment Account.

22        (b)(A) Fifty-seven percent of the moneys in the Post-Secondary Academic and Workforce  
 23 Investment Account are continuously appropriated to the Department of Higher Education  
 24 for distribution as strategic investments as provided in section 10 of this 2007 Act.

25        (B) Forty-three percent of the moneys in the Post-Secondary Academic and Workforce  
 26 Investment Account are continuously appropriated to the Department of Community Col-  
 27 leges and Workforce Development for distribution as strategic investments as provided in  
 28 section 10 of this 2007 Act.

29        (4) Notwithstanding ORS 293.190, any moneys in a subaccount of the Education Oppor-  
 30 tunity and Innovation Fund that are not distributed in any biennium shall be retained in the  
 31 subaccount and may be distributed in the next biennium.

32        (5) Interest earned by a subaccount of the Education Opportunity and Innovation Fund  
 33 shall be credited to the subaccount.

34        **SECTION 7.** Section 6 of this 2007 Act is amended read:

35        **Sec 6.** (1) The Education Opportunity and Innovation Fund is established in the State Treasury,  
 36 separate and distinct from the General Fund.

37        (2)(a) The Prekindergarten Through Grade 12 Successful Schools Account is established as a  
 38 subaccount of the Education Opportunity and Innovation Fund. Seventy-seven percent of the moneys  
 39 in the Education Opportunity and Innovation Fund shall be deposited in the Prekindergarten  
 40 Through Grade 12 Successful Schools Account.

41        (b) All moneys in the Prekindergarten Through Grade 12 Successful Schools Account are con-  
 42 tinuously appropriated to the Department of Education for distribution as grants to school districts  
 43 as provided in section 9 of this 2007 Act.

44        (3)(a) The Post-Secondary Academic and Workforce Investment Account is established as a  
 45 subaccount of the Education Opportunity and Innovation Fund. Twenty-three percent of the moneys

1 in the Education Opportunity and Innovation Fund shall be deposited in the Post-Secondary Aca-  
 2 demic and Workforce Investment Account.

3 (b)(A) [*Fifty-seven*] **Forty-four** percent of the moneys in the Post-Secondary Academic and  
 4 Workforce Investment Account are continuously appropriated to the Department of Higher Educa-  
 5 tion for distribution as strategic investments as provided in section 10 of this 2007 Act.

6 (B) [*Forty-three*] **Thirty-three** percent of the moneys in the Post-Secondary Academic and  
 7 Workforce Investment Account are continuously appropriated to the Department of Community  
 8 Colleges and Workforce Development for distribution as strategic investments as provided in section  
 9 10 of this 2007 Act.

10 (C) **Twenty percent of the moneys in the Post-Secondary Academic and Workforce In-**  
 11 **vestment Account are continuously appropriated to the Oregon Student Assistance Com-**  
 12 **mission for distribution as Oregon Opportunity Grants under ORS 348.260.**

13 (D) **Three percent of the moneys in the Post-Secondary Academic and Workforce In-**  
 14 **vestment Account are continuously appropriated to the Oregon Department of Administra-**  
 15 **tive Services for allocation to the Oregon Health and Science University.**

16 (4) Notwithstanding ORS 293.190, any moneys in a subaccount of the Education Opportunity and  
 17 Innovation Fund that are not distributed in any biennium shall be retained in the subaccount and  
 18 may be distributed in the next biennium.

19 (5) Interest earned by a subaccount of the Education Opportunity and Innovation Fund shall be  
 20 credited to the subaccount.

21 **SECTION 8. The amendments to section 6 of this 2007 Act by section 7 of this 2007 Act**  
 22 **become operative on July 1, 2009.**

23 **SECTION 9. (1) Pursuant to rules adopted by the Joint Boards of Education and in addi-**  
 24 **tion to those moneys distributed through the State School Fund, the Department of Educa-**  
 25 **tion shall award grants from the Prekindergarten Through Grade 12 Successful Schools**  
 26 **Account to school districts.**

27 (2) **Each fiscal year, each school district shall receive a grant under this section that is**  
 28 **equal to the school district's ADMw × (the total amount available for the grants in each**  
 29 **fiscal year ÷ the total statewide ADMw).**

30 (3) **The Joint Boards of Education shall adopt rules to administer this section. The rules**  
 31 **shall include activities for which a school district may expend moneys received under this**  
 32 **section.**

33 (4) **Each fiscal year, the department shall report to the Emergency Board or the Joint**  
 34 **Committee on Ways and Means on the grants made to school districts under this section**  
 35 **during that fiscal year.**

36 (5) **As used in this section:**

37 (a) **“ADMw” means the extended weighted average daily membership as calculated under**  
 38 **ORS 327.013.**

39 (b) **“Total statewide ADMw” means the total extended ADMw of all school districts.**

40 **SECTION 10. (1) Pursuant to rules adopted by the Joint Boards of Education, the De-**  
 41 **partment of Community Colleges and Workforce Development and the Department of Higher**  
 42 **Education shall administer strategic investments in community colleges and state insti-**  
 43 **tutions of higher education listed in ORS 352.002 from funds allocated to the departments**  
 44 **from the Post-Secondary Academic and Workforce Investment Account.**

45 (2) **The departments shall make strategic investments under this section by distributing**

1 **moneys to community colleges and state institutions of higher education.**

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

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

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

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

13 291.342. (1) By August 15 of each year, but not earlier than 90 days from the end of the regular  
 14 session, if any, of the Legislative Assembly held in that calendar year, the Oregon Department of  
 15 Administrative Services, with the assistance of the Department of Revenue, shall:

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

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

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

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

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

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

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

35 [(3)] (4) In carrying out its duties under subsection (2) of this section, the Oregon Department  
 36 of Administrative Services shall issue quarterly a statement setting forth the methodology and as-  
 37 sumptions used in making the revenue [*estimate*] **estimates.** Nothing in this subsection requires the  
 38 statement to set forth procedures used or methods used to determine either the methodology or the  
 39 assumptions.

40 **SECTION 12. This 2007 Act being necessary for the immediate preservation of the public**  
 41 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**  
 42 **July 1, 2007.**