

House Bill 3010

Sponsored by Representatives KRUMMEL, DALLUM; Representatives BOQUIST, BUTLER, CAMERON, ESQUIVEL, FLORES, GARRARD, GILLIAM, GIROD, HANNA, JENSON, KRIEGER, MAURER, MINNIS, NELSON, OLSON, RICHARDSON, SCOTT, P SMITH, THATCHER, WHISNANT, Senators ATKINSON, BEYER, G GEORGE, L GEORGE, KRUSE, STARR, WHITSETT (at the request of School Choice Working Group)

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**.

Creates Freedom to Choose My School Grant program. Directs Department of Education to select large school district to administer grant program. Allows eligible students to attend public or private school under program. Directs district to pay grant funds to schools participating in program.

Specifies amount of grant. Adds weighting to State School Fund formula for students who participate in program.

First applies to 2008-2009 school year.

A BILL FOR AN ACT

1
2 Relating to Freedom to Choose My School Grant program; creating new provisions; and amending
3 ORS 327.006 and 327.013.

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

5 **SECTION 1. (1) There is created the Freedom to Choose My School Grant program. The**
6 **Department of Education shall select a school district that had an average daily membership,**
7 **as defined in ORS 327.006, of 40,000 or more for the 2005-2006 school year to administer the**
8 **grant program. Under the program an eligible student chooses a participating school to at-**
9 **tend. The district then sends the school grant funds to pay for the costs of providing the**
10 **student's education.**

11 **(2) The following schools may participate in the program:**

12 **(a) A public school operated by the district;**

13 **(b) A public charter school located within the district; and**

14 **(c) A private school that:**

15 **(A) Is accredited by the Northwest Association of Accredited Schools by December 31 of**
16 **the third school year following the first school year in which students attend the school un-**
17 **der the program;**

18 **(B) Is accredited by any other organization recognized by the National Council for Pri-**
19 **vate School Accreditation by December 31 of the third school year following the first school**
20 **year in which students attend the school under the program; or**

21 **(C) Is registered as a private school with the Department of Education.**

22 **(3) By February 1 of the year in which a school will be accepting grant students in the**
23 **fall, the school shall notify the district of the school's intent to participate in the program.**

24 **(4) The district shall publish a list of all qualified schools that will be participating in the**
25 **program by May 1 of each year.**

26 **(5) To be eligible for the program, a student must:**

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 (a) Reside within the boundaries of the district;

2 (b) Qualify for free lunches under the United States Department of Agriculture's current
3 Income Eligibility Guidelines; and

4 (c) Reside within a neighborhood where:

5 (A) 65 percent of the elementary school students qualify for free lunches;

6 (B) 60 percent of the middle school students qualify for free lunches; and

7 (C) 55 percent of the high school students qualify for free lunches.

8 (6) The program is limited to 1,000 students each school year. If the district receives
9 more than 1,000 applications from eligible students, then the district shall choose students
10 using an equitable lottery process. A student shall receive an automatic renewal of their
11 grant each year regardless of whether they continue to qualify for free lunches.

12 (7) The district shall notify a student of their grant award by June 1 prior to the begin-
13 ning of the school year in which the student will be participating in the program.

14 (8) The amount of a grant shall equal the amount per average daily membership (ADM)
15 that the district receives as a State School Fund grant. Moneys received under this section
16 by a public charter school for a student are in addition to moneys received by the public
17 charter school under ORS 338.155 or 338.165.

18 (9) The district shall send grant funds to a participating school that an eligible student
19 has chosen to attend. The funds shall be sent by September 1 of the school year in which the
20 student will be attending the school.

21 **SECTION 2.** Section 1 of this 2007 Act first applies to the 2008-2009 school year.

22 **SECTION 3.** ORS 327.006 is amended to read:

23 327.006. As used in ORS 327.006 to 327.133, 327.348, 327.355, 327.357, 327.360 and 327.731:

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

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

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

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

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

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

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

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

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

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

45 (3) "Average daily membership" or "ADM" means the aggregate days membership of a school

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

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

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

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

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

18 (A) Whose legal school residence is within the boundaries of a school district reporting the pu-
 19 pil, if the district is legally responsible for the education of the pupil, except that "resident pupil"
 20 does not include a pupil who pays tuition or for whom the parent pays tuition or for whom the
 21 district does not pay tuition for placement outside the district; [*or*]

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

24 **(C) Who is participating in the Freedom to Choose My School Grant program.**

25 (b) A pupil shall not be considered to be a resident pupil under paragraph (a)(A) of this sub-
 26 section if the pupil is attending school in another school district pursuant to a contract under ORS
 27 339.125 and in the prior year was considered to be a resident pupil in another school district under
 28 paragraph (a)(B) of this subsection. The pupil shall continue to be considered a resident of another
 29 school district under paragraph (a)(B) of this subsection.

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

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

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

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

41 **SECTION 4.** ORS 327.013, as amended by section 2, chapter 4, Oregon Laws 2006, is amended
 42 to read:

43 327.013. The State School Fund distributions for school districts shall be computed as follows:

44 (1) General Purpose Grant = Funding Percentage × Target Grant × District extended ADMw.

45 (2) The funding percentage shall be calculated by the Superintendent of Public Instruction to

1 distribute as nearly as practicable the total sum available for distribution of money.

2 (3) Target Grant = Statewide Target per ADMw Grant + Teacher Experience Factor.

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

4 (5) Teacher Experience Factor = $\$25 \times$ {District average teacher experience – statewide average teacher experience}. “Average teacher experience” means the average, in years, of teaching
5 experience of certified teachers as reported to the Department of Education.
6

7 (6) District extended ADMw = ADMw or ADMw of the prior year, whichever is greater.

8 (7)(a) Weighted average daily membership or ADMw = average daily membership + an additional
9 amount computed as follows:

10 (A) 1.0 for each student in average daily membership eligible for special education as a child
11 with disabilities under ORS 343.035, applicable to not to exceed 11 percent of the district’s ADM
12 without review and approval of the Department of Education. Children with disabilities eligible for
13 special education in adult local correctional facilities as defined in ORS 169.005 or adult regional
14 correctional facilities as defined in ORS 169.620 may not be included in the calculation of the 11
15 percent.

16 (B) 0.5 for each student in average daily membership eligible for and enrolled in an English as
17 a second language program under ORS 336.079.

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

21 (D) -0.1 for each student in average daily membership enrolled in an elementary district operating
22 kindergarten through grade 6 or kindergarten through grade 8 or in an area of a unified
23 school district where the district is only responsible for educating students in kindergarten through
24 grade 8.

25 (E) 0.25 times the sum of the following:

26 (i) The number of children 5 to 17 years of age in poverty families in the district, as determined
27 by the Department of Education from a report of the federal Department of Education based on the
28 most recent federal decennial census, as adjusted by the school district’s proportion of students in
29 the county receiving free or reduced price lunches under the United States Department of Agriculture’s
30 current Income Eligibility Guidelines if the number is higher than the number determined
31 from census data and only if the school district had an average daily membership of 2,500 or less
32 for the 1995-1996 school year, and as further adjusted by the number of students in average daily
33 membership in June of the year of distribution divided by number of students in average daily
34 membership in the district, or its predecessors, in June of the year of the most recent federal
35 decennial census;

36 (ii) The number of children in foster homes in the district as determined by the report of the
37 Department of Human Services to the federal Department of Education, “Annual Statistical Report
38 on Children in Foster Homes and Children in Families Receiving AFDC Payments in Excess of the
39 Poverty Income Level,” or its successor, for October 31 of the year prior to the year of distribution;
40 and

41 (iii) The number of children in the district in state-recognized facilities for neglected and delin-
42 quent children, based on information from the Department of Human Services for October 31 of the
43 year prior to the year of distribution.

44 (F) An additional amount as determined by ORS 327.077 shall be added to the ADMw for each
45 remote small elementary school and for each small high school in the district.

1 **(G) 1.0 for each student in average daily membership participating in the Freedom to**
 2 **Choose My School Grant program.**

3 [(G)] **(H)** All numbers of children used for the computation in this section must reflect any dis-
 4 trict consolidations that have occurred since the numbers were compiled.

5 (b) The total additional weight that shall be assigned to any student in average daily member-
 6 ship in a district, exclusive of students described in paragraph (a)(E), [and] (F) **and (G)** of this sub-
 7 section shall not exceed 2.0.

8 (8) High cost disabilities grant = the total amount received by a school district under ORS
 9 327.348, for providing special education and related services to resident pupils with disabilities.

10 (9)(a) Transportation grant equals:

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

13 (B) 80 percent of approved transportation costs for those school districts ranked in or above the
 14 80th percentile but below the 90th percentile under paragraph (b) of this subsection.

15 (C) 90 percent of approved transportation costs for those school districts ranked in or above the
 16 90th percentile under paragraph (b) of this subsection.

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

20 (10) Local Revenues are the total of the following:

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

23 (b) The amount of property taxes actually received by the district including penalties and in-
 24 terest on taxes;

25 (c) The amount of revenue received by the district from the Common School Fund under ORS
 26 327.403 to 327.410;

27 (d) The amount of revenue received by the district from the county school fund;

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

30 (f) The amount of revenue received by the district from state managed forestlands under ORS
 31 530.115 (1)(b) and (c);

32 (g) Moneys received in lieu of property taxes;

33 (h) Federal funds received without specific application by the school district and which are not
 34 deemed under federal law to be nonsupplantable;

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

39 (j) Any amount distributed to the district in the prior fiscal year under section 4 (3), chapter
 40 695, Oregon Laws 2001, or ORS 327.019 (8).

41 (11) Notwithstanding subsection (10) of this section, Local Revenues do not include:

42 (a) If a school district imposes local option taxes pursuant to ORS 280.040 to 280.145, an amount
 43 equal to the lesser of:

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

1 (B) Fifteen percent of the combined total for the school district of the general purpose grant,
 2 the transportation grant, the facility grant and the high cost disabilities grant of the district; or

3 (C) \$750 per district extended ADMw; and

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

8 (12)(a) Facility Grant = 8 percent of total construction costs of new school buildings.

9 (b) A school district shall receive a Facility Grant in the distribution year that a new school
 10 building is first used.

11 (c) As used in this subsection:

12 (A) "New school building" includes new school buildings, adding structures onto existing school
 13 buildings and adding premanufactured structures to a school district if those buildings or structures
 14 are to be used for instructing students.

15 (B) "Construction costs" does not include costs for land acquisition.

16 (13) Notwithstanding subsection (10)(i) of this section, Local Revenues do not include any
 17 amount of operating property tax authority of the district that is:

18 (a) Attributable to the suspension of ORS 310.239 by section 1, chapter 4, Oregon Laws 2006;
 19 and

20 (b) Not actually imposed by the district.

21 **SECTION 5. The amendments to ORS 327.006 and 327.013 by sections 3 and 4 of this 2007**
 22 **Act become operative on July 1, 2008.**

23 **SECTION 6. The amendments to ORS 327.006 and 327.013 by sections 3 and 4 of this 2007**
 24 **Act apply to State School Fund distributions commencing with the 2008-2009 distribution.**

25 **SECTION 7.** ORS 327.013, as amended by sections 2 and 4, chapter 4, Oregon Laws 2006, is
 26 amended to read:

27 327.013. The State School Fund distributions for school districts shall be computed as follows:

28 (1) General Purpose Grant = Funding Percentage × Target Grant × District extended ADMw.

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

31 (3) Target Grant = Statewide Target per ADMw Grant + Teacher Experience Factor.

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

33 (5) Teacher Experience Factor = \$25 × {District average teacher experience – statewide av-
 34 erage teacher experience}. "Average teacher experience" means the average, in years, of teaching
 35 experience of certified teachers as reported to the Department of Education.

36 (6) District extended ADMw = ADMw or ADMw of the prior year, whichever is greater.

37 (7)(a) Weighted average daily membership or ADMw = average daily membership + an addi-
 38 tional amount computed as follows:

39 (A) 1.0 for each student in average daily membership eligible for special education as a child
 40 with disabilities under ORS 343.035, applicable to not to exceed 11 percent of the district's ADM
 41 without review and approval of the Department of Education. Children with disabilities eligible for
 42 special education in adult local correctional facilities as defined in ORS 169.005 or adult regional
 43 correctional facilities as defined in ORS 169.620 may not be included in the calculation of the 11
 44 percent.

45 (B) 0.5 for each student in average daily membership eligible for and enrolled in an English as

1 a second language program under ORS 336.079.

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

5 (D) -0.1 for each student in average daily membership enrolled in an elementary district oper-
 6 ating kindergarten through grade 6 or kindergarten through grade 8 or in an area of a unified
 7 school district where the district is only responsible for educating students in kindergarten through
 8 grade 8.

9 (E) 0.25 times the sum of the following:

10 (i) The number of children 5 to 17 years of age in poverty families in the district, as determined
 11 by the Department of Education from a report of the federal Department of Education based on the
 12 most recent federal decennial census, as adjusted by the school district's proportion of students in
 13 the county receiving free or reduced price lunches under the United States Department of Agricul-
 14 ture's current Income Eligibility Guidelines if the number is higher than the number determined
 15 from census data and only if the school district had an average daily membership of 2,500 or less
 16 for the 1995-1996 school year, and as further adjusted by the number of students in average daily
 17 membership in June of the year of distribution divided by number of students in average daily
 18 membership in the district, or its predecessors, in June of the year of the most recent federal
 19 decennial census;

20 (ii) The number of children in foster homes in the district as determined by the report of the
 21 Department of Human Services to the federal Department of Education, "Annual Statistical Report
 22 on Children in Foster Homes and Children in Families Receiving AFDC Payments in Excess of the
 23 Poverty Income Level," or its successor, for October 31 of the year prior to the year of distribution;
 24 and

25 (iii) The number of children in the district in state-recognized facilities for neglected and delin-
 26 quent children, based on information from the Department of Human Services for October 31 of the
 27 year prior to the year of distribution.

28 (F) An additional amount as determined by ORS 327.077 shall be added to the ADMw for each
 29 remote small elementary school and for each small high school in the district.

30 **(G) 1.0 for each student in average daily membership participating in the Freedom to**
 31 **Choose My School Grant program.**

32 [(G)] **(H)** All numbers of children used for the computation in this section must reflect any dis-
 33 trict consolidations that have occurred since the numbers were compiled.

34 (b) The total additional weight that shall be assigned to any student in average daily member-
 35 ship in a district, exclusive of students described in paragraph (a)(E), [and] (F) **and (G)** of this sub-
 36 section shall not exceed 2.0.

37 (8) High cost disabilities grant = the total amount received by a school district under ORS
 38 327.348, for providing special education and related services to resident pupils with disabilities.

39 (9)(a) Transportation grant equals:

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

42 (B) 80 percent of approved transportation costs for those school districts ranked in or above the
 43 80th percentile but below the 90th percentile under paragraph (b) of this subsection.

44 (C) 90 percent of approved transportation costs for those school districts ranked in or above the
 45 90th percentile under paragraph (b) of this subsection.

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

4 (10) Local Revenues are the total of the following:

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

7 (b) The amount of property taxes actually received by the district including penalties and in-
 8 terest on taxes;

9 (c) The amount of revenue received by the district from the Common School Fund under ORS
 10 327.403 to 327.410;

11 (d) The amount of revenue received by the district from the county school fund;

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

14 (f) The amount of revenue received by the district from state managed forestlands under ORS
 15 530.115 (1)(b) and (c);

16 (g) Moneys received in lieu of property taxes;

17 (h) Federal funds received without specific application by the school district and which are not
 18 deemed under federal law to be nonsupplantable;

19 (i) Any positive amount obtained by subtracting the operating property taxes actually imposed
 20 by the district, based on the rate certified pursuant to ORS 310.060, from the amount that would
 21 have been imposed by the district if the district had certified the maximum rate of operating prop-
 22 erty taxes allowed by law; and

23 (j) Any amount distributed to the district in the prior fiscal year under section 4 (3), chapter
 24 695, Oregon Laws 2001, or ORS 327.019 (8).

25 (11) Notwithstanding subsection (10) of this section, Local Revenues do not include, if a school
 26 district imposes local option taxes pursuant to ORS 280.040 to 280.145, an amount equal to the lesser
 27 of:

28 (a) The amount of revenue actually received (a) by the district from local option taxes imposed
 29 pursuant to ORS 280.040 to 280.145;

30 (b) Fifteen percent of the combined total for the school district of the general purpose grant, the
 31 transportation grant, the facility grant and the high cost disabilities grant of the district; or

32 (c) \$750 per district extended ADMw.

33 (12)(a) Facility Grant = 8 percent of total construction costs of new school buildings.

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

36 (c) As used in this subsection:

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

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

41 **SECTION 8. The amendments to ORS 327.013 by section 7 of this 2007 Act become oper-**
 42 **ative on July 1, 2009.**