

House Bill 3349

Sponsored by Representative FLORES

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**.

Establishes Autism Scholarship Program within Department of Education. Directs department to award scholarships to children with autism to attend public school outside of resident school district or nonpublic school.

Directs Legislative Administration Committee to contract with researchers to conduct study of program.

Allows department to use moneys from State School Fund for program.

First applies to 2008-2009 school year.

A BILL FOR AN ACT

1
2 Relating to students with autism; creating new provisions; and amending ORS 327.006 and 327.008.

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

SECTION 1. As used in sections 1 to 6 of this 2007 Act:

4
5 (1) **"Eligible student" means any elementary or secondary student in this state:**

6 (a) **Who has been identified by the student's resident school district as having autism or**
7 **autism spectrum disorder and who has an individualized education program in effect; and**

8 (b) **Who was enrolled in public school in the previous school year or is eligible to enter**
9 **public school in the school year in which an autism scholarship is first sought for the stu-**
10 **dent.**

11 (2) **"Individualized education program" has the meaning given that term in ORS 343.035.**

12 (3) **"Parent" includes a guardian, custodian or other person with authority to act on be-**
13 **half of the student.**

14 (4) **"Program" means the Autism Scholarship Program established in section 2 of this**
15 **2007 Act.**

16 (5) **"Participating school" means either a public school outside of the student's resident**
17 **school district or any nonpublic school that provides education to elementary or secondary**
18 **students that has notified the Department of Education of its intention to participate in the**
19 **program and complies with the program's requirements.**

20 (6) **"Resident school district" means the school district in which the parent of the student**
21 **resides.**

22 (7) **"State agency" means an agency within the executive department as that term is**
23 **defined in ORS 174.112.**

24 **SECTION 2. (1) The Autism Scholarship Program is established within the Department**
25 **of Education.**

26 (2) **Any parent of an eligible student shall qualify for a scholarship from the state for the**
27 **student to enroll in and attend a participating school if:**

28 (a) **The eligible student has an individualized education program written in accordance**

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 with the rules of the department;

2 (b) The eligible student has been accepted for admission at a participating school; and

3 (c) The parent of the eligible student has requested a scholarship from the state before
4 the deadline established by the department.

5 (3) The department shall inform a resident school district that an eligible student has
6 requested a scholarship from the Autism Scholarship Program. The resident school district
7 shall within three business days provide the department with a copy of the student's most
8 current individualized education program.

9 (4) Upon receipt of the eligible student's request for an autism scholarship, the depart-
10 ment shall review the individualized education program drafted by the student's public school
11 to determine the amount of the scholarship. The department shall provide the eligible stu-
12 dent's parent with a timely written explanation of the department's determination of the
13 scholarship amount.

14 (5) The maximum scholarship granted to an eligible student shall be an amount equiv-
15 alent to the cost of the educational program that would have been provided to the student
16 in the resident school district. Although the scholarship amount is a function of a student's
17 individualized education program, the participating school is not required to abide by the
18 individualized education program. The parent and the participating school shall mutually
19 determine the best services and educational program for the student.

20 (6) The amount of the autism scholarship shall be the lesser of the amount determined
21 under subsection (4) of this section or the amount of the participating school's estimated
22 costs for serving the student. The costs of any assessment by the participating school of the
23 student's special needs may be included in the scholarship amount.

24 (7) The department may use moneys from the State School Fund for autism scholarships.
25 Moneys needed to provide an autism scholarship shall be subtracted from general purpose
26 grant calculated under ORS 327.013 for the resident school district.

27 (8) An eligible student may receive an autism scholarship until the student returns to a
28 public school operated by the resident school district or graduates from high school or
29 reaches the student's 21st birthday, whichever comes first.

30 (9) At any time, an eligible student's parent may remove the student from the partic-
31 ipating school and place the student in another participating school or in a public school.

32 **SECTION 3.** (1) A resident school district shall annually notify the parents of an eligible
33 student about the Autism Scholarship Program and offer that student's parent an opportu-
34 nity to choose a participating school and to enroll the student in that school.

35 (2) The resident school district shall provide transportation for an eligible student to and
36 from the student's participating school under the same conditions as the resident school
37 district is required to provide transportation to public charter school students under ORS
38 338.145.

39 (3) Any transportation costs incurred by a school district under subsection (2) of this
40 section shall be considered approved transportation costs for purposes of ORS 327.013 in the
41 same manner as transportation costs incurred by the school district for transporting stu-
42 dents who attend the public schools of the school district are considered approved transpor-
43 tation costs for purposes of ORS 327.013.

44 (4) If the parent of an eligible student who participates in the Autism Scholarship Pro-
45 gram requests that the student take the statewide assessments, the resident school district

1 shall provide locations and times for the student to take all statewide assessments if the
 2 assessments are not offered at the student's participating school.

3 **SECTION 4.** (1) The State Board of Education shall adopt rules regarding:

4 (a) The eligibility and participation of nonpublic schools in the Autism Scholarship Pro-
 5 gram, including timelines that will maximize student and public and nonpublic school par-
 6 ticipation;

7 (b) The calculation and distribution of autism scholarships to eligible students and par-
 8 ticipating schools; and

9 (c) The scholarship application and approval procedures for eligible students and partic-
 10 ipating schools.

11 (2) No liability shall arise on the part of the Department of Education or the state based
 12 on the award or use of an autism scholarship.

13 (3) The department may bar a school from participation in the program if the department
 14 establishes that the participating school:

15 (a) Has intentionally and substantially misrepresented information required under section
 16 5 of this 2007 Act; or

17 (b) Has failed to refund to the state any scholarship overpayments in a timely manner.

18 (4) If the department decides to bar a participating school from the program, the de-
 19 partment shall notify eligible students and their parents of this decision as quickly as possi-
 20 ble.

21 **SECTION 5.** (1) To be eligible to participate in the Autism Scholarship Program, a non-
 22 public school must operate in this state and demonstrate administrative, financial and aca-
 23 demic accountability.

24 (2) To ensure that eligible students are treated fairly and kept safe, a nonpublic school
 25 that participates in the program shall:

26 (a) Comply with all state and local laws that apply to nonpublic schools; and

27 (b) Certify that the school will not discriminate in admissions on the basis of ethnicity,
 28 national origin, race, religion, disability, gender, income level, proficiency in the English
 29 language or athletic ability.

30 (3) To ensure that public funds are spent appropriately, a nonpublic school that partic-
 31 ipates in the program shall:

32 (a)(A) Submit a financial information report for the school that complies with uniform
 33 financial accounting standards established by the Department of Education and is prepared
 34 by a certified public accountant; and

35 (B) Have an auditor certify that the report is free of material misstatements. The audi-
 36 tor's certification shall be limited in scope to those records that are necessary for the de-
 37 partment to make payments to schools for scholarships.

38 (b) Demonstrate the school's financial viability by showing that the school can pay any
 39 funds owed to the state if the school is to receive \$50,000 or more during the school year,
 40 by:

41 (A) Filing with the department prior to the start of the school year a surety bond payable
 42 to the state in an amount equal to the aggregate amount of the autism scholarships expected
 43 to be paid during the school year to eligible students admitted to the school; or

44 (B) Filing with the department prior to the start of the school year financial information
 45 that demonstrates that the school has the ability to pay an aggregate amount equal to the

1 amount of the autism scholarships expected to be paid during the school year to eligible
2 students admitted to the school.

3 (4) To ensure that the school provides academic accountability to parents of eligible
4 students in the program, a nonpublic school that participates in the program shall regularly
5 report to the parents on the students' progress and ensure that any person who provides
6 special education or related services holds the appropriate license issued by the Teacher
7 Standards and Practices Commission.

8 (5)(a) A nonpublic school that participates in the program is autonomous and not an
9 agent of the state or federal government.

10 (b) The department or any other state agency may not in any way regulate the educa-
11 tional program of a nonpublic school that accepts an autism scholarship.

12 (c) The creation of the Autism Scholarship Program does not expand the regulatory au-
13 thority of the state, its officers or any school district to impose any additional regulation of
14 a nonpublic school that participates in the program beyond those reasonably necessary to
15 enforce the requirements of the program.

16 (d) A nonpublic school that participates in the program shall be given the maximum
17 freedom to provide for the educational needs of its students without governmental control.

18 **SECTION 6.** (1) It is the responsibility of a parent to select a participating school for an
19 eligible student, apply for the student's admission and apply for an autism scholarship.

20 (2) An eligible student who participates in the Autism Scholarship Program must comply
21 fully with a participating school's written code of conduct and must remain in attendance
22 throughout the school year, unless excused by the school for illness or other good cause.

23 (3) Notwithstanding subsection (2) of this section, a parent may transfer an eligible stu-
24 dent to another participating school or to a public school at any time. If an eligible student
25 is transferred to another participating school, the scholarship amount shall be prorated be-
26 tween participating schools according to the period of attendance at each school.

27 (4) A parent's decision to have the parent's eligible student participate in the program
28 constitutes a nonpublic placement for purposes of the Individuals with Disabilities Education
29 Act.

30 **SECTION 7.** (1) The Legislative Administration Committee may contract with one or
31 more qualified researchers who have previous experience evaluating school choice programs
32 to conduct a study of the Autism Scholarship Program established under sections 1 to 6 of
33 this 2007 Act.

34 (2) The study shall be conducted with funds other than state funds and shall assess:

35 (a) The level of participating students' satisfaction with the program;

36 (b) The level of parental satisfaction with the program;

37 (c) The percentage of participating students who were victimized because of their special
38 needs status at their resident school districts compared to the percentage so victimized at
39 their participating schools;

40 (d) The percentage of participating students who exhibited behavioral problems at their
41 resident school districts compared to the percentage exhibiting behavioral problems at their
42 participating schools;

43 (e) The class size experienced by participating students at their resident school districts
44 and at their participating schools; and

45 (f) The fiscal impact to the state and resident school districts of the program.

1 **(3) The researchers who conduct the study shall apply appropriate analytical and behav-**
 2 **ioral sciences methodologies to ensure public confidence in the study.**

3 **(4) The researchers who conduct the study shall provide the Legislative Assembly with**
 4 **a final copy of the results of the study.**

5 **(5) The public and nonpublic participating schools from which a student transfers to**
 6 **participate in the program shall cooperate with the research effort by providing student as-**
 7 **essment instrument scores and any other data necessary to complete the study.**

8 **(6) The Legislative Administration Committee may accept grants and donations to assist**
 9 **in funding the study.**

10 **(7) The Legislative Administration Committee may require periodic reports from the re-**
 11 **searchers and may require the researchers to present the reports to appropriate legislative**
 12 **committees. The researchers must make their data and methodology available for public re-**
 13 **view while complying with the requirements of the Family Educational Rights and Privacy**
 14 **Act of 1974 (20 U.S.C. 1232g).**

15 **SECTION 8.** ORS 327.006 is amended to read:

16 327.006. As used in ORS 327.006 to 327.133, 327.348, 327.355, 327.357, 327.360 and 327.731:

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

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

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

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

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

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

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

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

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

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

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

44 (4) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers of the
 45 Portland, Oregon, Standard Metropolitan Statistical Area, as compiled by the United States De-

1 partment of Labor, Bureau of Labor Statistics.

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

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

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

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

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

17 **(C) Whose legal residence is within the boundaries of the district reporting the pupil but**
18 **is participating in the Autism Scholarship Program under sections 1 to 6 of this 2007 Act.**

19 (b) A pupil shall not be considered to be a resident pupil under paragraph (a)(A) of this sub-
20 section if the pupil is attending school in another school district pursuant to a contract under ORS
21 339.125 and in the prior year was considered to be a resident pupil in another school district under
22 paragraph (a)(B) of this subsection. The pupil shall continue to be considered a resident of another
23 school district under paragraph (a)(B) of this subsection.

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

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

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

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

35 **SECTION 9.** ORS 327.008, as amended by section 6a, chapter 803, Oregon Laws 2005, is
36 amended to read:

37 327.008. (1) There is established a State School Fund in the General Fund. The fund shall consist
38 of moneys appropriated by the Legislative Assembly and moneys transferred from the Education
39 Stability Fund. The State School Fund is continuously appropriated to the Department of Education
40 for the purposes of ORS 327.006 to 327.077, 327.095, 327.099, 327.101, 327.125, 327.137, 327.348,
41 327.355, 327.357, 327.360, 336.575, 336.580, 336.635, 342.173, 343.243, 343.533 and 343.961 **and sections**
42 **1 to 6 of this 2007 Act.**

43 (2) There shall be apportioned from the State School Fund to each school district a State School
44 Fund grant, consisting of the positive amount equal to a general purpose grant and a facility grant
45 and a transportation grant and a high cost disabilities grant minus local revenue, computed as pro-

1 vided in ORS 327.013.

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

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

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

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

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

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

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

18 **SECTION 10. The amendments to ORS 327.006 and 327.008 by sections 8 and 9 of this 2007**
19 **Act apply to State School Fund distributions commencing with the 2008-2009 distribution.**

20 **SECTION 11. The Department of Education shall first make autism scholarships available**
21 **to students for the 2008-2009 school year.**

22