

Senate Bill 71

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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**.

Allows Secretary of State to conduct performance audits of school districts, education service districts, public charter schools and private alternative education programs. Directs that payment for audits be made from State School Fund.

Directs secretary to establish advisory committee to provide advice and assistance on administration of audits.

Sunsets provisions June 30, 2018.

A BILL FOR AN ACT

1
2 Relating to audits of providers of education; creating new provisions; and amending ORS 297.210,
3 297.230, 327.008 and 327.019.

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

5 **SECTION 1.** ORS 297.210 is amended to read:

6 297.210. (1)(a) The Secretary of State, as State Auditor, shall have the accounts and financial
7 affairs of state departments, boards, commissions, institutions and state-aided institutions and agen-
8 cies of the state reviewed or audited as the Secretary of State considers advisable or necessary.

9 **(b) The Secretary of State, as State Auditor, may conduct performance audits of school**
10 **districts, education service districts, public charter schools and private alternative education**
11 **programs that have entered into a contract with a district school board.**

12 (c) The Secretary of State may subpoena witnesses, require the production of books and papers
13 and rendering of reports in such manner and form as the Secretary of State requires and may do
14 all things necessary to secure a full and thorough investigation. The Secretary of State shall report,
15 in writing, to the Governor. The report shall include a copy of the report on each audit.

16 (2) An audit or review shall be made of any institution or department of the state government
17 at any time the executive head of the institution or department, for any reason, retires from the
18 head's office or position.

19 (3) The Secretary of State shall employ auditors upon such terms and for such compensation as
20 the Secretary of State determines are advantageous and advisable.

21 (4) If a person fails to comply with any subpoena issued under subsection (1) of this section, a
22 judge of the circuit court of any county, on application of the Secretary of State, shall compel obe-
23 dience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena
24 issued from the circuit court.

25 **SECTION 2.** ORS 297.210, as amended by section 1 of this 2007 Act, is amended to read:

26 297.210. (1)(a) The Secretary of State, as State Auditor, shall have the accounts and financial
27 affairs of state departments, boards, commissions, institutions and state-aided institutions and agen-
28 cies of the state reviewed or audited as the Secretary of State considers advisable or necessary.

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 *[(b) The Secretary of State, as State Auditor, may conduct performance audits of school districts,*
 2 *education service districts, public charter schools and private alternative education programs that have*
 3 *entered into a contract with a district school board.]*

4 *[(c)]* (b) The Secretary of State may subpoena witnesses, require the production of books and
 5 papers and rendering of reports in such manner and form as the Secretary of State requires and
 6 may do all things necessary to secure a full and thorough investigation. The Secretary of State shall
 7 report, in writing, to the Governor. The report shall include a copy of the report on each audit.

8 (2) An audit or review shall be made of any institution or department of the state government
 9 at any time the executive head of the institution or department, for any reason, retires from the
 10 head's office or position.

11 (3) The Secretary of State shall employ auditors upon such terms and for such compensation as
 12 the Secretary of State determines are advantageous and advisable.

13 (4) If a person fails to comply with any subpoena issued under subsection (1) of this section, a
 14 judge of the circuit court of any county, on application of the Secretary of State, shall compel obe-
 15 dience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena
 16 issued from the circuit court.

17 **SECTION 3. The amendments to ORS 297.210 by section 2 of this 2007 Act become oper-**
 18 **ative on June 30, 2018.**

19 **SECTION 4.** ORS 297.230 is amended to read:

20 297.230. (1) The Division of Audits shall estimate in advance the expenses that it will incur
 21 during the biennium in carrying out the provisions of ORS 297.030, 297.120 and 297.210[,] and shall
 22 charge officers, departments, boards and commissions of state government and other public bodies
 23 for their share of [*such*] **the** expenses for periods within the biennium and in sufficient amounts to
 24 provide reasonable cash operating requirements for the Division of Audits within the biennial pe-
 25 riod. Each officer, department, board or commission or other public body shall pay **the charge** to
 26 the credit of the Division of Audits Account [*such charge*] as an administrative expense from funds
 27 or appropriations available to it in the same manner as other claims against the state or public body
 28 are paid.

29 **(2) Notwithstanding subsection (1) of this section, for purposes of carrying out perform-**
 30 **ance audits of school districts, education service districts, public charter schools and private**
 31 **alternative education programs under ORS 297.210, the Division of Audits shall estimate in**
 32 **advance the expenses that it will incur during the biennium in carrying out the provisions**
 33 **of ORS 297.210 (1)(b) and shall charge the State School Fund for the expenses for periods**
 34 **within the biennium and in sufficient amounts to provide reasonable cash operating re-**
 35 **quirements for the Division of Audits within the biennial period. The Department of Educa-**
 36 **tion shall pay the charge to the credit of the Division of Audits Account as an administrative**
 37 **expense from the State School Fund.**

38 [(2)] (3) Payments authorized under this section shall be consistent with ORS 171.580 and
 39 171.585. The Division of Audits shall report to the Joint Legislative Audit Committee established
 40 under ORS 171.580 when estimated expenses for an audit authorized under [*subsection (1)*] **sub-**
 41 **sections (1) and (2)** of this section exceed the estimated expenses for a biennium.

42 [(3)] (4) All moneys received from the various state departments, boards, commissions, insti-
 43 tutions and state-aided institutions and agencies of the state in the payment of the costs of audits
 44 and reviews under this section and ORS 297.210 shall be credited to the Division of Audits Account.

45 **SECTION 5.** ORS 297.230, as amended by section 4 of this 2007 Act, is amended to read:

1 297.230. (1) The Division of Audits shall estimate in advance the expenses that it will incur
 2 during the biennium in carrying out the provisions of ORS 297.030, 297.120 and 297.210 and shall
 3 charge officers, departments, boards and commissions of state government and other public bodies
 4 for their share of the expenses for periods within the biennium and in sufficient amounts to provide
 5 reasonable cash operating requirements for the Division of Audits within the biennial period. Each
 6 officer, department, board or commission or other public body shall pay the charge to the credit of
 7 the Division of Audits Account as an administrative expense from funds or appropriations available
 8 to it in the same manner as other claims against the state or public body are paid.

9 *[(2) Notwithstanding subsection (1) of this section, for purposes of carrying out performance audits
 10 of school districts, education service districts, public charter schools and private alternative education
 11 programs under ORS 297.210, the Division of Audits shall estimate in advance the expenses that it
 12 will incur during the biennium in carrying out the provisions of ORS 297.210 (1)(b) and shall charge
 13 the State School Fund for the expenses for periods within the biennium and in sufficient amounts to
 14 provide reasonable cash operating requirements for the Division of Audits within the biennial period.
 15 The Department of Education shall pay the charge to the credit of the Division of Audits Account as
 16 an administrative expense from the State School Fund.]*

17 [(3)] (2) Payments authorized under this section shall be consistent with ORS 171.580 and
 18 171.585. The Division of Audits shall report to the Joint Legislative Audit Committee established
 19 under ORS 171.580 when estimated expenses for an audit authorized under [subsections (1) and (2)]
 20 **subsection (1)** of this section exceed the estimated expenses for a biennium.

21 [(4)] (3) All moneys received from the various state departments, boards, commissions, insti-
 22 tutions and state-aided institutions and agencies of the state in the payment of the costs of audits
 23 and reviews under this section and ORS 297.210 shall be credited to the Division of Audits Account.

24 **SECTION 6. The amendments to ORS 297.230 by section 5 of this 2007 Act become oper-**
 25 **ative on June 30, 2018.**

26 **SECTION 7.** ORS 327.008, as amended by section 6a, chapter 803, Oregon Laws 2005, is
 27 amended to read:

28 327.008. (1) There is established a State School Fund in the General Fund. The fund shall consist
 29 of moneys appropriated by the Legislative Assembly and moneys transferred from the Education
 30 Stability Fund. The State School Fund is continuously appropriated to the Department of Education
 31 for the purposes of ORS **297.210, 297.230**, 327.006 to 327.077, 327.095, 327.099, 327.101, 327.125,
 32 327.137, 327.348, 327.355, 327.357, 327.360, 336.575, 336.580, 336.635, 342.173, 343.243, 343.533 and
 33 343.961.

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

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

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

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

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

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

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

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

9 **SECTION 8.** ORS 327.008, as amended by section 6a, chapter 803, Oregon Laws 2005, and sec-
 10 tion 7 of this 2007 Act, is amended to read:

11 327.008. (1) There is established a State School Fund in the General Fund. The fund shall consist
 12 of moneys appropriated by the Legislative Assembly and moneys transferred from the Education
 13 Stability Fund. The State School Fund is continuously appropriated to the Department of Education
 14 for the purposes of ORS [297.210, 297.230,] 327.006 to 327.077, 327.095, 327.099, 327.101, 327.125,
 15 327.137, 327.348, 327.355, 327.357, 327.360, 336.575, 336.580, 336.635, 342.173, 343.243, 343.533 and
 16 343.961.

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

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

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

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

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

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

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

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

37 **SECTION 9. The amendments to ORS 327.008 by section 8 of this 2007 Act become oper-**
 38 **ative on June 30, 2018.**

39 **SECTION 10.** ORS 327.019 is amended to read:

40 327.019. (1) As used in this section:

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

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

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

1 (B) The amount of property taxes actually received by the district including penalties and in-
2 terest on taxes;

3 (C) The amount of revenue received by the district from state-managed forestlands under ORS
4 530.115 (1)(b) and (c); and

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

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

11 (3)(a) Each fiscal year, the superintendent shall calculate the total amount appropriated or al-
12 located to the State School Fund and available for distribution to school districts, education service
13 districts and programs + total amount of local revenues of all school districts, computed as provided
14 in ORS 327.013, + total amount of local revenues of all education service districts. The super-
15 intendent may not include in the calculation under this paragraph amounts recovered by the De-
16 partment of Education from the State School Fund under ORS 343.243 **or amounts paid to the**
17 **Division of Audits Account under ORS 297.230.**

18 (b) The superintendent shall multiply the amount calculated under paragraph (a) of this sub-
19 section by 95.25 percent.

20 (c) Based on the amount calculated under paragraph (b) of this subsection, the superintendent
21 shall calculate a funding percentage to distribute as nearly as practicable under ORS 327.006 to
22 327.133, 327.348, 327.355, 327.357 and 327.360 the total amount calculated under paragraph (b) of this
23 subsection as school district general purpose grants, facility grants, high cost disabilities grants and
24 transportation grants to school districts.

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

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

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

31 (b) \$950,000.

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

34 (6)(a) After completing the calculations under subsections (2) to (5) of this section, the Super-
35 intendent of Public Instruction shall apportion from the State School Fund to each education service
36 district an amount = (funding percentage \times general services grant) – local revenues of the educa-
37 tion service district.

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

41 (7) Notwithstanding subsections (5) and (6) of this section, the State School Fund grant of an
42 education service district may not be less than zero.

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

1 based on the district extended ADMw of each school district.

2 **SECTION 11.** ORS 327.019, as amended by section 10 of this 2007 Act, is amended to read:

3 327.019. (1) As used in this section:

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

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

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

9 (B) The amount of property taxes actually received by the district including penalties and in-
10 terest on taxes;

11 (C) The amount of revenue received by the district from state-managed forestlands under ORS
12 530.115 (1)(b) and (c); and

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

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

19 (3)(a) Each fiscal year, the superintendent shall calculate the total amount appropriated or al-
20 located to the State School Fund and available for distribution to school districts, education service
21 districts and programs + total amount of local revenues of all school districts, computed as provided
22 in ORS 327.013, + total amount of local revenues of all education service districts. The super-
23 intendent may not include in the calculation under this paragraph amounts recovered by the De-
24 partment of Education from the State School Fund under ORS 343.243 [*or amounts paid to the*
25 *Division of Audits Account under ORS 297.230*].

26 (b) The superintendent shall multiply the amount calculated under paragraph (a) of this sub-
27 section by 95.25 percent.

28 (c) Based on the amount calculated under paragraph (b) of this subsection, the superintendent
29 shall calculate a funding percentage to distribute as nearly as practicable under ORS 327.006 to
30 327.133, 327.348, 327.355, 327.357 and 327.360 the total amount calculated under paragraph (b) of this
31 subsection as school district general purpose grants, facility grants, high cost disabilities grants and
32 transportation grants to school districts.

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

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

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

39 (b) \$950,000.

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

42 (6)(a) After completing the calculations under subsections (2) to (5) of this section, the Super-
43 intendent of Public Instruction shall apportion from the State School Fund to each education service
44 district an amount = (funding percentage \times general services grant) – local revenues of the educa-
45 tion service district.

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

4 (7) Notwithstanding subsections (5) and (6) of this section, the State School Fund grant of an
 5 education service district may not be less than zero.

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

10 **SECTION 12. The amendments to ORS 327.019 by section 11 of this 2007 Act become op-**
 11 **erative on June 30, 2018.**

12 **SECTION 13. (1) The Secretary of State shall establish an advisory committee to provide**
 13 **advice and assistance to the secretary on the administration of performance audits of school**
 14 **districts, education service districts, public charter schools and private alternative education**
 15 **programs under ORS 297.210.**

16 (2) The secretary shall appoint to the committee a representative from each of the fol-
 17 lowing:

- 18 (a) The Oregon School Boards Association;
- 19 (b) The Confederation of Oregon School Administrators or school business managers;
- 20 (c) The Oregon Education Association;
- 21 (d) The Oregon School Employees Association; and
- 22 (e) The Department of Education.

23 (3) The President of the Senate shall appoint one member of the committee from among
 24 the members of the Senate.

25 (4) The Speaker of the House of Representatives shall appoint one member of the com-
 26 mittee from among the members of the House of Representatives.

27 (5) The secretary shall seek the advice of the committee on the proposed plans of the
 28 secretary to conduct performance audits, including the scope, methodology and criteria used
 29 in the performance audits.

30 **SECTION 14. Section 13 of this 2007 Act is repealed on June 30, 2018.**

31 **SECTION 15. The amendments to ORS 327.008 and 327.019 by sections 7 and 10 of this 2007**
 32 **Act affect State School Fund distributions commencing with the 2007-2008 distribution.**

33 **SECTION 16. The amendments to ORS 327.008 and 327.019 by sections 8 and 11 of this 2007**
 34 **Act affect State School Fund distributions commencing with the 2018-2019 distribution.**