

# Enrolled House Bill 2533

Sponsored by Representatives ESQUIVEL, KRIEGER, OLSON, WHISNANT; Senators CARTER, WALKER

CHAPTER .....

AN ACT

Relating to school finance; creating new provisions; amending ORS 327.008, 327.013, 327.019, 327.026, 327.061, 327.077, 327.095, 327.099, 327.101, 327.336, 338.157, 338.165 and 340.065; repealing ORS 310.239 and section 1, chapter 4, Oregon Laws 2006; and prescribing an effective date.

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

**SECTION 1.** ORS 327.077 is amended to read:

327.077. (1) A school may qualify as a remote small elementary school if the average daily membership in grades one through eight for an elementary school teaching:

- (a) Eight grades is below 224.
- (b) Seven grades is below 196.
- (c) Six grades is below 168.
- (d) Five grades is below 140.
- (e) Four grades is below 112.
- (f) Three grades is below 84.
- (g) Two grades is below 56.
- (h) One grade is below 28.

(2) A school may qualify as a small high school if:

- (a) The school is in a school district that has an ADMw of less than 8,500; and
- (b) The average daily membership in grades 9 through 12 for a high school teaching:

- (A) Four grades is below 350.
- (B) Three grades is below 267.

(3) [No] **An** elementary school [shall] **does not** qualify as a remote small elementary school under subsection (1) of this section if it is within eight miles by the nearest traveled road from another elementary school unless there are physiographic conditions that make transportation to another school not feasible.

(4)(a) If an elementary school in a school district qualifies as a remote small elementary school, the district shall have an additional amount added to the district's ADMw.

(b) The additional amount = {224 - (ADM<sub>a</sub> ÷ (number of grades in the school ÷ eight))} × 0.0045 × ADM<sub>a</sub> × distance adjustment.

(5)(a) If a high school in a district qualifies as a small high school, the district shall have an additional amount added to the district's ADMw.

(b) The additional amount = {350 - (ADM<sub>a</sub> ÷ (number of grades in the school ÷ four))} × 0.0029 × ADM<sub>a</sub>.

(6) The distance adjustment for an elementary school = 0.025 for each 10th of a mile more than eight miles that a school is away from the nearest elementary school measured by the nearest traveled road or 1.0, whichever is less.

(7)(a) A school may qualify as a remote small elementary school under this section only if the location of the school has not changed since January 1, 1995, and if the school qualified as a remote small school on July 18, 1995.

(b) A school may qualify as a small high school under this section only if:

(A) The location of the school has not changed since January 1, 1995[, and if];

(B) The school qualified as a small high school on [October 23, 1999.] **the effective date of this 2009 Act; and**

(C) **On or after October 23, 1999, and prior to the effective date of this 2009 Act, the school was not part of a high school that divided or otherwise reorganized into two or more high schools.**

(c) A public charter school as defined in ORS 338.005 may qualify as a remote small elementary school under this section only if the location of the school has not changed since January 1, 1995, and if the school qualified as a nonchartered public remote small school on July 18, 1995.

(d) A public charter school as defined in ORS 338.005 may qualify as a small high school under this section only if the location of the school has not changed since January 1, 1995, and if the school qualified as a nonchartered public remote small school on July 18, 1995.

(e) The Superintendent of Public Instruction may waive the requirements of paragraph (a), (b), (c) or (d) of this subsection if the superintendent determines that exceptional circumstances exist.

(f) An alternative education program as defined in ORS 336.615 may not qualify as a small high school under this section.

(8) The opening of a public charter school shall not disqualify a school as a remote small elementary school under subsection (3) of this section or change the distance adjustment for a school under subsection (6) of this section.

(9)(a) Notwithstanding subsections (2), (5) and (7)(b) and (d) of this section, if two high schools merge and prior to the merger at least one of the high schools qualified as a small high school under this section, the Department of Education shall continue to add an additional amount pursuant to subsection (5) of this section to the ADMw of the school district in which the new merged high school is located that is equal to the higher of:

(A) The additional amount the school district of each of the former small high schools would have received under this section for the small high school based on the ADMa of each of the high schools prior to the merger; or

(B) In the case of a high school that remains qualified as a small high school under subsection (2) of this section after a merger, the ADMa of the merged small high school.

(b) The department shall add the additional amount under this subsection only for the first four fiscal years after the merger of the two high schools is final. If the merger of the two high schools becomes final on or before September 1, for purposes of this paragraph the merger shall be considered final in the prior fiscal year.

(10) For purposes of this section:

(a) The “adjusted average daily membership” or “ADMa” for an elementary school shall be the average daily membership for the school, but no less than 25.

(b) The “adjusted average daily membership” or “ADMa” for a high school shall be the average daily membership for the school, but no less than 60.

**SECTION 2. The amendments to ORS 327.077 by section 1 of this 2009 Act apply to State School Fund distributions occurring in fiscal years beginning on or after July 1, 2009.**

**SECTION 3. Section 4 of this 2009 Act is added to and made a part of ORS 327.006 to 327.133.**

**SECTION 4. For the 2009-2010 distribution of the State School Fund to a school district that has a high school that qualifies as a small high school under ORS 327.077, as amended by section 1 of this 2009 Act, the Department of Education shall calculate the school dis-**

trict's ADMw for the prior year as though the amendments to ORS 327.077 by section 1 of this 2009 Act were in effect on July 1, 2008, and shall calculate the school district's extended ADMw to reflect the amendments to ORS 327.077 by section 1 of this 2009 Act.

**SECTION 5.** Section 6 of this 2009 Act is added to and made a part of ORS 327.006 to 327.133.

**SECTION 6.** For the purpose of State School Fund distributions for school districts:

(1) Local Revenues are the total of the following:

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

(b) The amount of property taxes actually received by the district, including penalties and interest on taxes.

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

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

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

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

(g) Moneys received in lieu of property taxes.

(h) Federal funds received without specific application by the school district and that are not deemed under federal law to be nonsupplantable.

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

(j) Any amount distributed to the district in the prior fiscal year under ORS 327.019 (8).

(2) Local Revenues do not include:

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

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

(B) Twenty percent of the total received by the school district from the general purpose grant, the transportation grant, the facility grant and the high cost disabilities grant of the district, as those grants are calculated under ORS 327.013; or

(C) \$1,000 per district extended ADMw, as calculated under ORS 327.013, increased each fiscal year by three percent above the amount allowed per district extended ADMw for the prior fiscal year.

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

**SECTION 7.** ORS 327.013, as amended by section 4, chapter 4, Oregon Laws 2006, section 91, chapter 70, Oregon Laws 2007, and section 6, chapter 778, Oregon Laws 2007, is amended to read:

327.013. The State School Fund distributions for school districts *[shall be computed as follows:]* include the following grants:

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

**For the purpose of the calculation made under this subsection:**

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

[3] (b) Target Grant = Statewide Target per ADMw Grant + Teacher Experience Factor. **For the purpose of the calculation made under this paragraph:**

[4] (A) Statewide Target per ADMw Grant = \$4,500.

[5] (B) Teacher Experience Factor =  $\$25 \times \{\text{District average teacher experience} - \text{statewide average teacher experience}\}$ . **As used in this subparagraph**, “average teacher experience” means the average, in years, of teaching experience of [certified] **licensed** teachers as reported to the Department of Education.

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

**For the purpose of this paragraph:**

[7](a) (A) Weighted average daily membership or ADMw = average daily membership + an additional amount computed as follows:

[A] (i) 1.0 for each student in average daily membership eligible for special education as a child with a disability under ORS 343.035, [applicable to not to] **which may not** exceed 11 percent of the district’s ADM without review and approval [of] **by** the Department of Education. Children with disabilities eligible for special education in adult local correctional facilities, as defined in ORS 169.005, or adult regional correctional facilities, as defined in ORS 169.620, may not be included in the calculation [of the 11 percent] **made under this sub-subparagraph.**

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

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

[D] (iv) -0.1 for each student in average daily membership enrolled in an elementary district operating kindergarten through grade [6] **six** or kindergarten through grade [8] **eight** or in an area of a unified school district where the district is only responsible for educating students in kindergarten through grade [8] **eight.**

[E] (v) 0.25 times the sum of the following:

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

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

[iii] (III) The number of children in the district in state-recognized facilities for neglected and delinquent children, based on information from the Department of Human Services for October 31 of the year prior to the year of distribution.

[F] (vi) [An additional amount as determined by ORS 327.077 shall be added to the ADMw] **The amount determined under ORS 327.077** for each remote small elementary school and for each small high school in the district.

[G] (B) All numbers of children used for the computation in this [section] **paragraph** must reflect any district consolidations that have occurred since the numbers were compiled.

[b] (C) The total additional weight that shall be assigned to any student in average daily membership in a district, exclusive of students described in [paragraph (a)(E) and (F)] **subparagraph (A)(v) and (vi)** of this [subsection shall] **paragraph, may** not exceed 2.0.

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

[(9)(a)] **(3)(a)** Transportation grant equals:

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

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

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

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

[(10) Local Revenues are the total of the following:]

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

[(b) The amount of property taxes actually received by the district including penalties and interest on taxes;]

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

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

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

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

[(g) Moneys received in lieu of property taxes;]

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

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

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

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

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

[(b) Twenty percent of the combined total for the school district of the general purpose grant, the transportation grant, the facility grant and the high cost disabilities grant of the district; or]

[(c) \$1,000 per district extended ADMw, increased each fiscal year by three percent above the amount allowed per district extended ADMw for the prior fiscal year.]

[(12)(a)] **(4)(a)** Facility Grant = 8 percent of total construction costs of new school buildings.

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

(c) As used in this subsection:

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

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

**SECTION 8.** ORS 327.008, as amended by section 1, chapter 39, Oregon Laws 2008, is amended to read:

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

(2) There shall be apportioned from the State School Fund to each school district a State School Fund grant, consisting of the positive amount equal to a general purpose grant and a facility grant and a transportation grant and a high cost disabilities grant minus local revenue, computed as provided in ORS 327.013 **and section 6 of this 2009 Act.**

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

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

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

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

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

(8) Each fiscal year, the Department of Education shall transfer the amount of \$18 million from the State School Fund to the High Cost Disabilities Account established in ORS 327.348.

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

(10) Each fiscal year, the Department of Education may expend up to \$550,000 from the State School Fund for the contract described in ORS 329.488. The amount distributed to education service districts from the State School Fund under this section and ORS 327.019 shall be reduced by the amount expended by the department under this subsection.

(11) Each biennium, the Department of Education may expend up to \$800,000 from the State School Fund for the administration of ORS 326.133 and 326.136.

(12) Each biennium, the Department of Education may expend up to \$350,000 from the State School Fund to provide administration of and support for the development of talented and gifted education under ORS 343.404.

(13) Each biennium, the Department of Education may expend up to \$150,000 from the State School Fund for the administration of a program to increase the number of speech-language pathologists and speech-language pathology assistants under ORS 348.394 to 348.406.

**SECTION 9.** ORS 327.008, as amended by section 12, chapter 846, Oregon Laws 2007, and section 2, chapter 39, Oregon Laws 2008, is amended to read:

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

(2) There shall be apportioned from the State School Fund to each school district a State School Fund grant, consisting of the positive amount equal to a general purpose grant and a facility grant and a transportation grant and a high cost disabilities grant minus local revenue, computed as provided in ORS 327.013 **and section 6 of this 2009 Act.**

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

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

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

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

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

(8) Each fiscal year, the Department of Education shall transfer the amount of \$18 million from the State School Fund to the High Cost Disabilities Account established in ORS 327.348.

(9) Each fiscal year, the Department of Education may expend up to \$550,000 from the State School Fund for the contract described in ORS 329.488. The amount distributed to education service districts from the State School Fund under this section and ORS 327.019 shall be reduced by the amount expended by the department under this subsection.

(10) Each biennium, the Department of Education may expend up to \$800,000 from the State School Fund for the administration of ORS 326.133 and 326.136.

(11) Each biennium, the Department of Education may expend up to \$350,000 from the State School Fund to provide administration of and support for the development of talented and gifted education under ORS 343.404.

(12) Each biennium, the Department of Education may expend up to \$150,000 from the State School Fund for the administration of a program to increase the number of speech-language pathologists and speech-language pathology assistants under ORS 348.394 to 348.406.

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

327.019. (1) As used in this section:

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

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

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

(B) The amount of property taxes actually received by the district including penalties and interest on taxes;

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

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

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

(3)(a) Each fiscal year, the superintendent shall calculate the total amount appropriated or allocated to the State School Fund and available for distribution to school districts, education service districts and programs + total amount of local revenues of all school districts, computed as provided in [ORS 327.013] **section 6 of this 2009 Act**, + total amount of local revenues of all education service districts. The superintendent may not include in the calculation under this paragraph amounts recovered by the Department of Education from the State School Fund under ORS 343.243.

(b) The superintendent shall multiply the amount calculated under paragraph (a) of this subsection by 95.25 percent.

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

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

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

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

(b) \$1 million.

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

(6)(a) After completing the calculations under subsections (2) to (5) of this section, the Superintendent of Public Instruction shall apportion from the State School Fund to each education service district an amount = (funding percentage  $\times$  general services grant) – local revenues of the education service district.

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

(7) Notwithstanding subsections (5) and (6) of this section:

(a) The State School Fund grant of an education service district may not be less than zero; and

(b) The State School Fund grant of an education service district shall be in an amount that, when combined with the local revenues of the education service district, equals \$1 million or more.

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

**SECTION 11.** ORS 327.019, as amended by section 13, chapter 846, Oregon Laws 2007, is amended to read:

327.019. (1) As used in this section:

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

(b) “Local revenues of an education service district” means the total of the following:

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

(B) The amount of property taxes actually received by the district including penalties and interest on taxes;

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

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

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

(3)(a) Each fiscal year, the superintendent shall calculate the total amount appropriated or allocated to the State School Fund and available for distribution to school districts, education service districts and programs + total amount of local revenues of all school districts, computed as provided in [ORS 327.013] **section 6 of this 2009 Act**, + total amount of local revenues of all education service districts. The superintendent may not include in the calculation under this paragraph amounts recovered by the Department of Education from the State School Fund under ORS 343.243.

(b) The superintendent shall multiply the amount calculated under paragraph (a) of this subsection by 95.25 percent.

(c) Based on the amount calculated under paragraph (b) of this subsection, the superintendent shall calculate a funding percentage to distribute as nearly as practicable under ORS 327.006 to

327.133 and 327.348 the total amount calculated under paragraph (b) of this subsection as school district general purpose grants, facility grants, high cost disabilities grants and transportation grants to school districts.

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

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

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

(b) \$1 million.

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

(6)(a) After completing the calculations under subsections (2) to (5) of this section, the Superintendent of Public Instruction shall apportion from the State School Fund to each education service district an amount = (funding percentage  $\times$  general services grant) – local revenues of the education service district.

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

(7) Notwithstanding subsections (5) and (6) of this section:

(a) The State School Fund grant of an education service district may not be less than zero; and

(b) The State School Fund grant of an education service district shall be in an amount that, when combined with the local revenues of the education service district, equals \$1 million or more.

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

**SECTION 12.** ORS 327.026 is amended to read:

327.026. (1) In order to accomplish the purpose described in ORS 326.700, the State Board of Education shall adopt by rule definitions and procedures to be applied to the computation of the State School Fund allocations where necessary to make students enrolled in the Youth Corrections Education Program, as defined in ORS 326.695, and the Juvenile Detention Education Program, as defined in ORS 326.695, equivalent to students enrolled in common and union high school districts for purposes of distribution of the fund.

(2)(a) The Youth Corrections Education Program shall be entitled to receive from the State School Fund for each school year a special State School Fund grant, consisting of a general purpose grant that is equal to the Youth Corrections Education Program ADM multiplied by 2.0 multiplied by the additional per student weight, as [defined] **calculated** in ORS 327.013 [(7)(a)(A)] **(1)(c)(A)(i)**, multiplied by Funding Percentage and further multiplied by Statewide Target per ADMw Grant.

(b) Notwithstanding paragraph (a) of this subsection, the Youth Corrections Education Program may not receive moneys under this section from the State School Fund for any youth in the program who:

(A) Has received a high school diploma; or

(B) Is 21 years of age or older.

(3) The Juvenile Detention Education Program shall be entitled to receive from the State School Fund for each school year a special State School Fund grant, consisting of a general purpose grant that is equal to the Juvenile Detention Education Program ADM multiplied by 1.5 multiplied by Funding Percentage and further multiplied by Statewide Target per ADMw Grant.

(4) Funds allocated to the Youth Corrections Education Program and the Juvenile Detention Education Program from the State School Fund shall remain with the Department of Education and shall be adjusted in the year following the distribution to reflect the actual ADMw of students in

the Youth Corrections Education Program and the Juvenile Detention Education Program in the same manner as for the school districts under ORS 327.101.

**SECTION 13.** ORS 327.061 is amended to read:

327.061. (1) Numbers of students in average daily membership used in the distribution formula as specified in ORS 327.013 [(7)] **(1)(c)**, shall be projections of the average daily membership in the district for the school year ending on June 30 of the distribution year. The Department of Education shall verify all projections used for purposes of the distribution formula.

(2) The department shall use information from the Department of Revenue under ORS 311.175 as the basis for determining projected district property taxes. The department shall request relevant information from the school districts to enable the department to estimate the amount each school district shall receive from the State School Fund. The department shall provide this estimate no later than the first Monday in March of each year for the distribution for the following fiscal year.

(3) A school district may appeal to the department any projection verified by the department under subsection (1) of this section. The department shall rule on the appeal in a timely manner and if necessary issue a revised estimate of the amount each school district shall receive from the State School Fund no later than the last Friday in March.

(4) Notwithstanding subsection (3) of this section, no school district may appeal any projection verified under subsection (1) of this section if the district failed to provide information requested by the department under subsection (2) of this section.

**SECTION 14.** ORS 327.095 is amended to read:

327.095. (1) Funds due school districts under ORS 327.008 and 327.013 shall be paid approximately 16-2/3 percent on July 15, approximately eight and one-third percent on the 15th day of each of the months of August, September, October, November, December, January, February, March and April and the balance on May 15. An equitable apportionment based on the most recent data available shall be made on the installment dates prior to May 15. If such payments are too high or too low, appropriate adjustments shall be made in the May 15 payments. However, if the reports required by ORS 327.133 have not been received from any district when due, no further apportionments shall be made to such district until such reports are filed.

(2) If the combined estimated level of ADMw under ORS 327.013 [(7)] **(1)(c)** of all school districts is less than the statewide projected level of ADMw, the Department of Education may:

(a) Adjust the distributions to school districts on the installment dates to reflect the difference; and

(b) Set aside an amount of the funds appropriated to the State School Fund for the fiscal year until the May 15 distribution.

**SECTION 15.** ORS 327.099 is amended to read:

327.099. (1) The Department of Education shall adjust the distribution to a school district to reflect the difference between the estimated level of local revenues to the district under [ORS 327.013] **section 6 of this 2009 Act** and the projected level of those same local revenues used to calculate the State School Fund apportionment to the district. The adjustment shall be incorporated in the May 15 apportionment to the district in the distribution year.

(2) The department shall adjust the May 15 apportionment to a school district in the distribution year to reflect an ADMw of the district equal to the higher of the ADMw of the prior year or the adjusted ADMw for the December quarter. Adjusted ADMw for the December quarter shall equal:

(a) ADMw as determined by the department from information provided in the December quarterly report for the current distribution year filed with the department under ORS 327.133;

(b) Multiplied by the lesser of 1.0 or the average of the ratios for the preceding two years of the ADM for the year ending June 30 to the ADM for the quarter ending December 31 for the same school year as filed under ORS 327.133.

(3) The sum equal to the sum of all negative adjustments made to the May 15 apportionment under subsection (1) of this section shall be used by the department for purposes of funding positive adjustments required under subsection (1) of this section and adjustments required under subsection (2) of this section.

(4) The department shall also set aside an amount of the funds appropriated to the State School Fund for the fiscal year to fund any positive adjustments required under subsection (1) of this section and adjustments required under subsection (2) of this section in excess of the amount available under subsection (3) of this section. The amount set aside shall be as determined by law.

(5) If the amounts available under subsections (3) and (4) of this section are either not sufficient to fund the positive adjustments or exceed the positive adjustments to districts required under subsections (1) and (2) of this section and the adjustments required under subsection (2) of this section, the Superintendent of Public Instruction shall recalculate the funding percentage in ORS 327.013 [(2)] (1)(a) to distribute as nearly as practicable the total sum available for distribution.

**SECTION 16.** ORS 327.101 is amended to read:

327.101. (1) Each fiscal year, the distribution to a school district under ORS 327.008 and 327.013 shall be adjusted to fully reflect the difference between the apportionment due to the district for the prior fiscal year under ORS 327.008 and 327.013, and the amounts actually distributed to the district in the prior fiscal year under ORS 327.008, 327.013 and 327.099. The adjustment shall be made to the May 15 apportionment to the district.

(2) No consideration shall be made in the adjustment made under subsection (1) of this section for any penalties, forfeitures or additional receipts of State School Fund moneys, except when expressly directed by law.

(3) An amount of funds equal to the sum of all negative adjustments made to the May 15 apportionment under subsection (1) of this section shall be used by the Department of Education for purposes of funding positive adjustments required under subsection (1) of this section in the same fiscal year.

(4) If the amounts available under subsection (3) of this section are either not sufficient or exceed the adjustments to districts required under subsection (1) of this section, the Superintendent of Public Instruction shall recalculate the funding percentage in ORS 327.013 [(2)] (1)(a) to distribute as nearly as practicable the total sum available for distribution.

**SECTION 17.** ORS 327.336 is amended to read:

327.336. (1) As used in this section:

(a) "Extended ADMw" means the district extended weighted average daily membership computed under ORS 327.013 [(6)] (1)(c).

(b) "Local option tax rate" means the amount of local option taxes imposed by the school district for the current fiscal year, after compression under ORS 310.150 and after subtraction of the amount of school district local option taxes that are distributed to an urban renewal agency pursuant to ORS 457.440, divided by the assessed value of the school district.

(c) "School district" means a common or union high school district.

(d) "Target district" means the school district that, for the fiscal year prior to the year for which grants are being determined, had a total assessed value of taxable property per district extended ADMw that was greater than all but 25 percent of the school districts in this state for that prior fiscal year. The Department of Education shall determine which school district is the target district for a fiscal year, based on the total assessed values of school districts reported to the Department of Education by the Department of Revenue for the fiscal year prior to the year for which grants are being determined under this section.

(2) A school district shall receive a local option equalization grant for a fiscal year:

(a) In which the school district imposes local option taxes pursuant to ORS 280.040 to 280.145; and

(b) For which the total assessed value of taxable property per extended ADMw of the school district for the prior fiscal year does not exceed the total assessed value of taxable property per extended ADMw of the target district for the prior fiscal year.

(3) The amount of the local option equalization grant shall equal the lesser of:

(a) The product of the local option tax rate of the school district for the current fiscal year  $\times$  (total assessed value per extended ADMw of the target district for the prior fiscal year – total

assessed value per extended ADMw of the school district for the prior fiscal year) × the extended ADMw of the school district for the prior fiscal year; or

(b) The amount obtained by subtracting the local option tax imposed by the school district for the current fiscal year, after compression under ORS 310.150, from the lesser of:

(A) Twenty percent of the combined total for the school district of the general purpose grant, the transportation grant, the facility grant and the high cost disabilities grant of the school district for the current fiscal year; or

(B) \$1,000 multiplied by the extended ADMw of the school district for the current fiscal year. The amount multiplied by the extended ADMw of the school district shall be increased each fiscal year by three percent above the amount allowed for the prior fiscal year.

(4) If the amount computed under subsection (3)(b) of this section is zero or less, a local option equalization grant may not be made to the school district for the fiscal year.

(5) As soon as is practicable after school districts have certified property taxes to the assessor under ORS 310.060, the Department of Revenue shall report to the Department of Education a list of school districts certifying local option taxes for the current fiscal year and the local option tax rates for those districts. The amount of each local option equalization grant shall be calculated by the Department of Education.

(6) If the election authorizing the imposition of a local option tax is held after the start of a biennium in which the local option tax is to be imposed, the local option equalization grant for a fiscal year of that biennium shall be determined as otherwise prescribed in this section, but may not be paid to the school district until the first fiscal year of the next succeeding biennium.

**SECTION 18.** ORS 338.157 is amended to read:

338.157. For purposes of calculating the weighted average daily membership (ADMw) of a public charter school, it shall be assumed that the public charter school has the same percentage of children in poverty families, as calculated under ORS 327.013 [(7)(a)(E)(i)] **(1)(c)(A)(v)(I)**, as the school district in which the public charter school is located. Based on this percentage, an additional amount shall be added to the average daily membership (ADM) of the public charter school.

**SECTION 19.** ORS 338.165 is amended to read:

338.165. (1) Notwithstanding ORS 338.155 (1), for purposes of this section, the “resident school district” of a student who is eligible for special education and related services shall be the school district in which the student’s parent or guardian or person in parental relationship to the student resides pursuant to ORS 339.133 and 339.134.

(2) For students who attend public charter schools and are eligible for special education and related services:

(a) The resident school district of the student shall be responsible for providing any required special education and related services to the student; and

(b) Amounts from the State School Fund for those students shall be distributed through the resident school district pursuant to this section.

(3) Notwithstanding ORS 338.155 (2), a resident school district of a student who is eligible for special education and related services shall contractually establish, with any public charter school in which the student is enrolled, payment for provision of special education and related services to the student. If a student is enrolled in a public charter school and is eligible for special education and related services an additional amount shall be added to the ADM of the public charter school as described in ORS 327.013 [(7)(a)(A)] **(1)(c)(A)(i)**. The payment per ADMw in the public charter school that is attributable to the student who is eligible for special education and related services shall equal an amount that is at least equal to:

(a) 40 percent of the amount of the school district’s General Purpose Grant per ADMw as calculated under ORS 327.013 for students who are enrolled in kindergarten through grade eight; and

(b) 47.5 percent of the amount of the school district’s General Purpose Grant per ADMw as calculated under ORS 327.013 for students who are enrolled in grades 9 through 12.

(4) If the resident school district is not the sponsor of a public charter school, the resident school district for each ADMw that is attributable to a student enrolled in a public charter school

who is eligible for special education and related services shall transfer five percent of the amount of the school district's General Purpose Grant per ADMw as calculated under ORS 327.013 to the sponsor of the public charter school.

(5) Notwithstanding subsection (3) of this section, a school district and a public charter school may negotiate on a case-by-case basis for an alternative distribution of funds other than the distribution prescribed by subsection (3) of this section.

**SECTION 20.** ORS 340.065 is amended to read:

340.065. (1) A resident school district may provide transportation services to eligible students who attend eligible post-secondary institutions within any education service district boundaries of which the school district is a component school district.

(2) Any transportation costs incurred by a school district under this section shall be considered approved transportation costs for purposes of ORS 327.013 [(9)] (3).

**SECTION 21.** Section 6 of this 2009 Act and the amendments to ORS 327.008, 327.013, 327.019, 327.026, 327.061, 327.095, 327.099, 327.101, 327.336, 338.157, 338.165 and 340.065 by sections 7 to 20 of this 2009 Act apply to State School Fund distributions occurring in fiscal years beginning on or after July 1, 2009.

**SECTION 22.** Notwithstanding ORS 327.095 (1), the Department of Education shall adjust the distributions to school districts made during the fiscal year beginning July 1, 2009, to distribute any additional funds that may be available as the result of the enactment of section 6 of this 2009 Act and the amendments to ORS 327.008, 327.013, 327.019, 327.026, 327.061, 327.077, 327.095, 327.099, 327.101, 327.336, 338.157, 338.165 and 340.065 by sections 1 and 7 to 20 of this 2009 Act.

**SECTION 23.** ORS 310.239 and section 1, chapter 4, Oregon Laws 2006, are repealed.

**SECTION 24.** This 2009 Act takes effect on the 91st day after the date on which the regular session of the Seventy-fifth Legislative Assembly adjourns sine die.

Passed by House June 2, 2009

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Chief Clerk of House

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Speaker of House

Passed by Senate June 17, 2009

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President of Senate

Received by Governor:

.....M.,....., 2009

Approved:

.....M.,....., 2009

.....  
Governor

Filed in Office of Secretary of State:

.....M.,....., 2009

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Secretary of State