

# House Bill 2765

Sponsored by Representative WHISNANT

## 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**.

Eliminates comparison of current year weighted average daily membership (ADMw) with prior year ADMw to calculate distributions under funding formulas for school districts and education service districts.

Creates declining enrollment grant program for school districts with declining enrollment. Appropriates moneys to Department of Education for purpose of grant program.

Declares emergency, effective July 1, 2009.

## A BILL FOR AN ACT

1  
2 Relating to school finance; creating new provisions; amending ORS 294.447, 327.008, 327.013, 327.019,  
3 327.026, 327.061, 327.095, 327.099, 327.101, 327.297, 327.336, 327.731, 338.157, 338.165, 340.045 and  
4 340.065; appropriating money; and declaring an emergency.

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

6 **SECTION 1.** ORS 327.013, as amended by section 4, chapter 4, Oregon Laws 2006, section 91,  
7 chapter 70, Oregon Laws 2007, and section 6, chapter 778, Oregon Laws 2007, is amended to read:

8 327.013. The State School Fund distributions for school districts *[shall be computed as follows:]*

9 **include the following grants:**

10 (1) General Purpose Grant = Funding Percentage × Target Grant × District *[extended]*  
11 ADMw. **For the purpose of the calculation made under this subsection:**

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

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

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

17 [(5)] (B) Teacher Experience Factor = \$25 × {District average teacher experience – statewide  
18 average teacher experience}. **As used in this subparagraph**, “average teacher experience” means  
19 the average, in years, of teaching experience of *[certified]* **licensed** teachers as reported to the De-  
20 partment of Education.

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

22 [(7)(a)] (c)(A) **District ADMw or** weighted average daily membership *[or ADMw]* = average  
23 daily membership + an additional amount computed as follows:

24 [(A)] (i) 1.0 for each student in average daily membership eligible for special education as a  
25 child with a disability under ORS 343.035, *[applicable to not to]* **which may not** exceed 11 percent  
26 of the district's ADM without review and approval *[of]* **by** the Department of Education. Children  
27 with disabilities eligible for special education in adult local correctional facilities, as defined in ORS  
28 169.005, or adult regional correctional facilities, as defined in ORS 169.620, may not be included in  
29 the calculation *[of the 11 percent]* **made under this sub-subparagraph.**

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

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

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

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

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

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

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

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

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

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

37       [(8)] (2) High cost disabilities grant = the total amount received by a school district under ORS  
38 327.348[,] for providing special education and related services to resident pupils with disabilities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (c) As used in this subsection:

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

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

42 **SECTION 2. Section 3 of this 2009 Act is added to and made a part of ORS 327.006 to**  
 43 **327.133.**

44 **SECTION 3. For the purpose of State School Fund distributions for school districts:**

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

1 (a) The amount of revenue offset against local property taxes as determined by the De-  
 2 partment of Revenue under ORS 311.175 (3)(a)(A).

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

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

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

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

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

12 (g) Moneys received in lieu of property taxes.

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

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

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

20 (2) Local Revenues do not include, if a school district imposes local option taxes pursuant  
 21 to ORS 280.040 to 280.145, an amount equal to the lesser of:

22 (a) The amount of revenue actually received by the district from local option taxes im-  
 23 posed pursuant to ORS 280.040 to 280.145;

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

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

29 **SECTION 4.** ORS 294.447 is amended to read:

30 294.447. (1) As used in this section “[*extended*] ADMw” means:

31 (a) For a school district, the district [*extended*] ADMw as calculated under ORS 327.013.

32 (b) For an education service district, the sum of the [*extended*] ADMw of the component school  
 33 districts of the education service district.

34 (2) Notwithstanding ORS 294.445, a school district or education service district that uses the  
 35 accrual basis method of accounting may include as accrued revenues in the budget and financial  
 36 statement of the school district or education service district, for any fiscal year, an amount from the  
 37 next fiscal year that is to be received in the next fiscal year. The amount accrued under this section  
 38 may not be greater than the amount calculated under subsection (3)(b) or (c) of this section multi-  
 39 plied by the [*extended*] ADMw of the school district or education service district.

40 (3)(a) For each fiscal year, the Department of Education shall calculate the amount available in  
 41 the State School Fund for grants and distributions to school districts and the amount available for  
 42 grants and distributions to education service districts under ORS 327.008, 327.013 and 327.019 based  
 43 on the appropriations and allocations made to the State School Fund for that fiscal year by the  
 44 Legislative Assembly in regular session. The department may not include in the amount calculated  
 45 to be available for school districts under this paragraph the amounts received by the Youth Cor-

1 rections Education Program and the Juvenile Detention Education Program under ORS 327.026 from  
 2 the State School Fund.

3 (b) The department shall calculate for school districts an amount equal to (the amount calcu-  
 4 lated under paragraph (a) of this subsection for school districts ÷ 12) ÷ the total statewide [*ex-*  
 5 *tended*] ADMw of all school districts.

6 (c) The department shall calculate for education service districts an amount equal to (the  
 7 amount calculated under paragraph (a) of this subsection for education service districts ÷ 12) ÷  
 8 the total statewide [*extended*] ADMw of all education service districts.

9 (d) The department may adjust the calculations under this subsection based on current data for  
 10 the factors used to calculate the State School Fund distribution to school districts and education  
 11 service districts under ORS 327.008, 327.013 and 327.019.

12 (e) Notwithstanding paragraph (d) of this subsection, the department may not adjust the calcu-  
 13 lation under paragraph (a) of this subsection based on changes made to the appropriations or allo-  
 14 cations to the State School Fund by the Legislative Assembly in special session or by rule of the  
 15 Oregon Department of Administrative Services relating to allotting funds.

16 (4) Notwithstanding ORS 294.445, a community college district or community college service  
 17 district that uses the accrual basis method of accounting may include as accrued revenues in the  
 18 budget and financial statement of the community college district or community college service dis-  
 19 trict, for any fiscal year, an amount from the next fiscal year that is to be received in the next fiscal  
 20 year. The amount accrued under this section may not be greater than 25 percent of the amount the  
 21 community college district or community college service district received as a Community College  
 22 Support Fund grant for the fiscal year for which the revenues are to be accrued.

23 **SECTION 5.** ORS 327.008, as amended by section 1, chapter 39, Oregon Laws 2008, is amended  
 24 to read:

25 327.008. (1) There is established a State School Fund in the General Fund. The fund shall consist  
 26 of moneys appropriated by the Legislative Assembly and moneys transferred from the Education  
 27 Stability Fund. The State School Fund is continuously appropriated to the Department of Education  
 28 for the purposes of ORS 327.006 to 327.077, 327.095, 327.099, 327.101, 327.125, 327.137, 327.348,  
 29 327.355, 327.357, 327.360, 336.575, 336.580, 336.635, 342.173, 343.243, 343.533 and 343.961.

30 (2) There shall be apportioned from the State School Fund to each school district a State School  
 31 Fund grant, consisting of the positive amount equal to a general purpose grant and a facility grant  
 32 and a transportation grant and a high cost disabilities grant minus local revenue, computed as pro-  
 33 vided in ORS 327.013 **and section 3 of this 2009 Act.**

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

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

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

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

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

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

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

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

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

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

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

17 **SECTION 6.** ORS 327.008, as amended by section 12, chapter 846, Oregon Laws 2007, and sec-  
18 tion 2, chapter 39, Oregon Laws 2008, is amended to read:

19 327.008. (1) There is established a State School Fund in the General Fund. The fund shall consist  
20 of moneys appropriated by the Legislative Assembly and moneys transferred from the Education  
21 Stability Fund. The State School Fund is continuously appropriated to the Department of Education  
22 for the purposes of ORS 327.006 to 327.077, 327.095, 327.099, 327.101, 327.125, 327.137, 327.348,  
23 336.575, 336.580, 336.635, 342.173, 343.243, 343.533 and 343.961.

24 (2) There shall be apportioned from the State School Fund to each school district a State School  
25 Fund grant, consisting of the positive amount equal to a general purpose grant and a facility grant  
26 and a transportation grant and a high cost disabilities grant minus local revenue, computed as pro-  
27 vided in ORS 327.013 **and section 3 of this 2009 Act.**

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

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

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

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

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

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

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

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

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

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

9 **SECTION 7.** ORS 327.019 is amended to read:

10 327.019. (1) As used in this section:

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

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

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

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

18 (C) The amount of revenue received by the district from state-managed forestlands under ORS  
19 530.115 (1)(b) and (c); and

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

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

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

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

34 (c) Based on the amount calculated under paragraph (b) of this subsection, the superintendent  
35 shall calculate a funding percentage to distribute as nearly as practicable under ORS 327.006 to  
36 327.133, 327.348, 327.355, 327.357 and 327.360 the total amount calculated under paragraph (b) of this  
37 subsection as school district general purpose grants, facility grants, high cost disabilities grants and  
38 transportation grants to school districts.

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

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

43 (a) The total amount calculated under subsection (3)(d) of this section for the component school  
44 districts of the education service district × (4.75 ÷ 95.25); or

45 (b) \$1 million.

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

3 (6)(a) After completing the calculations under subsections (2) to (5) of this section, the Super-  
 4 intendent of Public Instruction shall apportion from the State School Fund to each education service  
 5 district an amount = (funding percentage × general services grant) – local revenues of the edu-  
 6 cation service district.

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

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

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

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

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

18 **SECTION 8.** ORS 327.019, as amended by section 13, chapter 846, Oregon Laws 2007, is  
 19 amended to read:

20 327.019. (1) As used in this section:

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

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

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

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

28 (C) The amount of revenue received by the district from state-managed forestlands under ORS  
 29 530.115 (1)(b) and (c); and

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

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

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

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

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



1 327.133 and 327.348 the total amount calculated under paragraph (b) of this subsection as school  
 2 district general purpose grants, facility grants, high cost disabilities grants and transportation  
 3 grants to school districts.

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

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

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

10 (b) \$1 million.

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

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

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

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

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

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

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

28 **SECTION 9.** ORS 327.026 is amended to read:

29 327.026. (1) In order to accomplish the purpose described in ORS 326.700, the State Board of  
 30 Education shall adopt by rule definitions and procedures to be applied to the computation of the  
 31 State School Fund allocations where necessary to make students enrolled in the Youth Corrections  
 32 Education Program, as defined in ORS 326.695, and the Juvenile Detention Education Program, as  
 33 defined in ORS 326.695, equivalent to students enrolled in common and union high school districts  
 34 for purposes of distribution of the fund.

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

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

43 (A) Has received a high school diploma; or

44 (B) Is 21 years of age or older.

45 (3) The Juvenile Detention Education Program shall be entitled to receive from the State School

1 Fund for each school year a special State School Fund grant, consisting of a general purpose grant  
 2 that is equal to the Juvenile Detention Education Program ADM multiplied by 1.5 multiplied by  
 3 Funding Percentage and further multiplied by Statewide Target per ADMw Grant.

4 (4) Funds allocated to the Youth Corrections Education Program and the Juvenile Detention  
 5 Education Program from the State School Fund shall remain with the Department of Education and  
 6 shall be adjusted in the year following the distribution to reflect the actual ADMw of students in  
 7 the Youth Corrections Education Program and the Juvenile Detention Education Program in the  
 8 same manner as for the school districts under ORS 327.101.

9 **SECTION 10.** ORS 327.061 is amended to read:

10 327.061. (1) Numbers of students in average daily membership used in the distribution formula  
 11 as specified in ORS 327.013 [(7)] (1)(c), shall be projections of the average daily membership in the  
 12 district for the school year ending on June 30 of the distribution year. The Department of Education  
 13 shall verify all projections used for purposes of the distribution formula.

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

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

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

26 **SECTION 11.** ORS 327.095 is amended to read:

27 327.095. (1) Funds due school districts under ORS 327.008 and 327.013 shall be paid approxi-  
 28 mately 16-2/3 percent on July 15, approximately eight and one-third percent on the 15th day of each  
 29 of the months of August, September, October, November, December, January, February, March and  
 30 April and the balance on May 15. An equitable apportionment based on the most recent data avail-  
 31 able shall be made on the installment dates prior to May 15. If such payments are too high or too  
 32 low, appropriate adjustments shall be made in the May 15 payments. However, if the reports re-  
 33 quired by ORS 327.133 have not been received from any district when due, no further apportion-  
 34 ments shall be made to such district until such reports are filed.

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

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

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

41 **SECTION 12.** ORS 327.099 is amended to read:

42 327.099. (1) The Department of Education shall adjust the distribution to a school district to  
 43 reflect the difference between the estimated level of local revenues to the district under [ORS  
 44 327.013] **section 3 of this 2009 Act** and the projected level of those same local revenues used to  
 45 calculate the State School Fund apportionment to the district. The adjustment shall be incorporated

1 in the May 15 apportionment to the district in the distribution year.

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

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

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

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

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

18 (5) If the amounts available under subsections (3) and (4) of this section are either not sufficient  
 19 to fund the positive adjustments or exceed the positive adjustments to districts required under sub-  
 20 sections (1) and (2) of this section and the adjustments required under subsection (2) of this section,  
 21 the Superintendent of Public Instruction shall recalculate the funding percentage in ORS 327.013  
 22 [(2)] (1)(a) to distribute as nearly as practicable the total sum available for distribution.

23 **SECTION 13.** ORS 327.101 is amended to read:

24 327.101. (1) Each fiscal year, the distribution to a school district under ORS 327.008 and 327.013  
 25 shall be adjusted to fully reflect the difference between the apportionment due to the district for the  
 26 prior fiscal year under ORS 327.008 and 327.013, and the amounts actually distributed to the district  
 27 in the prior fiscal year under ORS 327.008, 327.013 and 327.099. The adjustment shall be made to the  
 28 May 15 apportionment to the district.

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

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

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

40 **SECTION 14.** ORS 327.297 is amended to read:

41 327.297. (1) In addition to those moneys distributed through the State School Fund, the Depart-  
 42 ment of Education shall award grants to school districts, education service districts, the Youth  
 43 Corrections Education Program and the Juvenile Detention Education Program for activities that  
 44 relate to increases in student achievement, including:

45 (a) Early childhood support including establishing, maintaining or expanding quality

1 prekindergarten programs and full-day kindergarten programs;

2 (b) Class size reduction with an emphasis on the reduction of kindergarten through grade three  
3 class sizes;

4 (c) Increases in instructional time including summer programs and before- and after-school pro-  
5 grams;

6 (d) Mentoring, teacher retention and professional development;

7 (e) Remediation, alternative learning and student retention;

8 (f) Services to at-risk youth;

9 (g) Programs to improve a student achievement gap between student groups identified by cul-  
10 ture, poverty, language and race and other student groups;

11 (h) Vocational education programs;

12 (i) Literacy programs; and

13 (j) Other research-based student improvement strategies approved by the State Board of Educa-  
14 tion.

15 (2)(a) Each school district, each education service district, the Youth Corrections Education  
16 Program and the Juvenile Detention Education Program may apply to the Department of Education  
17 for a grant.

18 (b) The department shall review and approve applications based on criteria established by the  
19 State Board of Education. In establishing the criteria, the State Board of Education shall consider  
20 the recommendations of the Quality Education Commission established under Executive Order 99-16  
21 and the recommendations of the Quality Education Commission established under ORS 327.500.

22 (c) The applications shall include the activities to be funded and the goals of the district or  
23 program for increases in student performance. The applications shall become part of the local dis-  
24 trict continuous improvement plan described in ORS 329.095.

25 (3) The Department of Education shall evaluate the annual progress of each recipient of grant  
26 funds under this section toward the performance targets established by the Quality Education  
27 Commissions. The evaluation shall become part of the requirements of the department for assessing  
28 the effectiveness of the district under ORS 329.085, 329.095 and 329.105. The department shall ensure  
29 district and program accountability by providing appropriate assistance, intervening and establish-  
30 ing consequences in order to support progress toward the performance targets.

31 (4) Each biennium the Department of Education shall issue a report to the Legislative Assembly  
32 on the grant program and the results of the grant program.

33 (5)(a) Notwithstanding ORS 338.155 (9), the Department of Education may not award a grant  
34 under this section directly to a public charter school.

35 (b) A school district that receives a grant under this section may transfer a portion of the grant  
36 to a public charter school based on the charter of the school or any other agreement between the  
37 school district and the public charter school.

38 (c) A public charter school that receives grant funds under this subsection shall use those funds  
39 for the activities specified in subsection (1) of this section.

40 (6)(a) The amount of each grant for a program or school district = the program's or school  
41 district's ADMw  $\times$  (the total amount available for distribution to programs and school districts as  
42 grants in each fiscal year  $\div$  the total ADMw of all programs and school districts that receive a  
43 grant).

44 (b) The amount of each grant for an education service district = the education service district's  
45 ADMw  $\times$  (the total amount available for distribution to education service districts as grants in

1 each fiscal year ÷ the total ADMw of all education service districts that receive a grant).

2 (c) As used in this subsection, “ADMw” means:

3 (A) For a school district, the [extended] weighted average daily membership as calculated under  
4 ORS 327.013, 338.155 (1) and 338.165 (2);

5 (B) For the Youth Corrections Education Program, the average daily membership as defined in  
6 ORS 327.006 multiplied by 2.0;

7 (C) For the Juvenile Detention Education Program, the average daily membership as defined in  
8 ORS 327.006 multiplied by 1.5; and

9 (D) For an education service district, the sum of the ADMw of the component school districts  
10 of the education service district.

11 (7) Each district or program shall deposit the grant amounts it receives under this section in a  
12 separate account, and shall apply amounts in that account to pay for activities described in the  
13 district’s or program’s application.

14 (8) The State Board of Education may adopt any rules necessary for the administration of the  
15 grant program.

16 **SECTION 15.** ORS 327.336 is amended to read:

17 327.336. (1) As used in this section:

18 (a) “[Extended] ADMw” means the district [extended] weighted average daily membership com-  
19 puted under ORS 327.013 [(6)] (1)(c).

20 (b) “Local option tax rate” means the amount of local option taxes imposed by the school dis-  
21 trict for the current fiscal year, after compression under ORS 310.150 and after subtraction of the  
22 amount of school district local option taxes that are distributed to an urban renewal agency pursu-  
23 ant to ORS 457.440, divided by the assessed value of the school district.

24 (c) “School district” means a common or union high school district.

25 (d) “Target district” means the school district that, for the fiscal year prior to the year for  
26 which grants are being determined, had a total assessed value of taxable property per district [ex-  
27 tended] ADMw that was greater than all but 25 percent of the school districts in this state for that  
28 prior fiscal year. The Department of Education shall determine which school district is the target  
29 district for a fiscal year, based on the total assessed values of school districts reported to the De-  
30 partment of Education by the Department of Revenue for the fiscal year prior to the year for which  
31 grants are being determined under this section.

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

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

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

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

39 (a) The product of the local option tax rate of the school district for the current fiscal year ×  
40 (total assessed value per [extended] ADMw of the target district for the prior fiscal year – total  
41 assessed value per [extended] ADMw of the school district for the prior fiscal year) × the  
42 [extended] ADMw of the school district for the prior fiscal year; or

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

45 (A) Twenty percent of the combined total for the school district of the general purpose grant,

1 the transportation grant, the facility grant and the high cost disabilities grant of the school district  
 2 for the current fiscal year; or

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

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

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

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

17 **SECTION 16.** ORS 327.731 is amended to read:

18 327.731. (1) Subject to rules of the State Board of Education, the Superintendent of Public In-  
 19 struction shall distribute a share of moneys in the School Capital Construction, Maintenance and  
 20 Technology Fund to school districts as education project grants. The education project grants shall  
 21 be distributed in one payment each distribution year. The education project grants shall be used for  
 22 any state education project, as defined in ORS 327.700.

23 (2) Each school district's education project grant = the district's [extended] ADMw for the dis-  
 24 tribution year × (the total amount available for the grants in each distribution year ÷ the total  
 25 statewide [extended] ADMw in the distribution year).

26 (3) Each school district shall deposit the amounts it receives as an education project grant in  
 27 a separate account, and shall apply amounts in that account to pay for costs of state education  
 28 projects or shall hold amounts in that account in reserve and apply them to pay costs of future state  
 29 education projects.

30 (4) School districts receiving education project grants from the School Capital Construction,  
 31 Maintenance and Technology Fund shall, if so directed by the Oregon Department of Administrative  
 32 Services, take any action specified by the Oregon Department of Administrative Services that is  
 33 necessary to maintain the excludability of lottery bond interest from gross income under the United  
 34 States Internal Revenue Code.

35 **SECTION 17.** ORS 338.157 is amended to read:

36 338.157. For purposes of calculating the weighted average daily membership (ADMw) of a public  
 37 charter school, it shall be assumed that the public charter school has the same percentage of chil-  
 38 dren in poverty families, as calculated under ORS 327.013 [(7)(a)(E)(i)] (1)(c)(A)(v)(I), as the school  
 39 district in which the public charter school is located. Based on this percentage, an additional  
 40 amount shall be added to the average daily membership (ADM) of the public charter school.

41 **SECTION 18.** ORS 338.165 is amended to read:

42 338.165. (1) Notwithstanding ORS 338.155 (1), for purposes of this section, the "resident school  
 43 district" of a student who is eligible for special education and related services shall be the school  
 44 district in which the student's parent or guardian or person in parental relationship to the student  
 45 reside pursuant to ORS 339.133 and 339.134.

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

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

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

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

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

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

19 (4) If the resident school district is not the sponsor of a public charter school, the resident  
 20 school district for each ADMw that is attributable to a student enrolled in a public charter school  
 21 who is eligible for special education and related services shall transfer five percent of the amount  
 22 of the school district's General Purpose Grant per ADMw as calculated under ORS 327.013 to the  
 23 sponsor of the public charter school.

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

27 **SECTION 19.** ORS 340.045 is amended to read:

28 340.045. (1) An eligible student enrolled in an eligible post-secondary course at an eligible post-  
 29 secondary institution pursuant to ORS 340.030 shall continue to be considered a resident pupil of  
 30 the student's school district for purposes of calculation of the State School Fund grant under ORS  
 31 327.006 to 327.133, 327.348, 327.355, 327.357, 327.360 and 327.731.

32 (2) The amount of each school district's general purpose grant per [extended] ADMw as calcu-  
 33 lated under ORS 327.013 shall be determined each fiscal year by the Department of Education and  
 34 made available to all school districts and, upon request, to any eligible post-secondary institution.

35 (3) A school district and any eligible post-secondary institution that accepts a student for en-  
 36 rollment in an eligible post-secondary course pursuant to ORS 340.030 shall negotiate in good faith  
 37 a financial agreement for the payment of actual instructional costs associated with the enrollment  
 38 of the eligible student in eligible post-secondary courses, including tuition and fees and the costs  
 39 of textbooks, equipment and materials.

40 (4) As part of the negotiated financial agreement, an eligible post-secondary institution shall  
 41 provide the school district with the published refund policy for eligible students who do not complete  
 42 eligible post-secondary courses in which the students enroll and do not earn credit.

43 (5) If, after participating in good faith negotiations, a school district and an eligible post-  
 44 secondary institution are unable to agree on the payment of actual instructional costs as described  
 45 in subsection (3) of this section, either entity may appeal to the department for a determination of

1 whether the negotiations were conducted in good faith.

2 (6) The department shall develop a process and criteria to use for appeals.

3 (7)(a) If the department determines that the negotiations were not conducted in good faith by  
4 either the school district or the eligible post-secondary institution, the department shall order the  
5 school district and the eligible post-secondary institution to conduct the negotiations again.

6 (b) If the department determines that the negotiations were conducted in good faith by the  
7 school district and the eligible post-secondary institution, the department shall grant the school  
8 district a waiver under ORS 340.083 from participating in the Expanded Options Program with the  
9 eligible post-secondary institution with which the school district was negotiating.

10 (8) The decision of the department shall be binding on the school district and the eligible post-  
11 secondary institution.

12 (9) In addition to any financial agreement entered into under subsection (3) of this section, the  
13 resident school district of the eligible student shall enter into an agreement with an eligible post-  
14 secondary institution that accepts a student for enrollment in an eligible post-secondary course that  
15 is a nontuition course or noncredit course pursuant to ORS 340.030 for the payment of the actual  
16 instructional costs associated with the student's attending the eligible post-secondary course at the  
17 institution.

18 (10) Nothing in this section shall prohibit an eligible post-secondary institution from receiving  
19 additional state funding that may be available under any other law.

20 **SECTION 20.** ORS 340.045, as amended by section 17, chapter 846, Oregon Laws 2007, is  
21 amended to read:

22 340.045. (1) An eligible student enrolled in an eligible post-secondary course at an eligible post-  
23 secondary institution pursuant to ORS 340.030 shall continue to be considered a resident pupil of  
24 the student's school district for purposes of calculation of the State School Fund grant under ORS  
25 327.006 to 327.133, 327.348 and 327.731.

26 (2) The amount of each school district's general purpose grant per *[extended]* ADMw as calcu-  
27 lated under ORS 327.013 shall be determined each fiscal year by the Department of Education and  
28 made available to all school districts and, upon request, to any eligible post-secondary institution.

29 (3) A school district and any eligible post-secondary institution that accepts a student for en-  
30 rollment in an eligible post-secondary course pursuant to ORS 340.030 shall negotiate in good faith  
31 a financial agreement for the payment of actual instructional costs associated with the enrollment  
32 of the eligible student in eligible post-secondary courses, including tuition and fees and the costs  
33 of textbooks, equipment and materials.

34 (4) As part of the negotiated financial agreement, an eligible post-secondary institution shall  
35 provide the school district with the published refund policy for eligible students who do not complete  
36 eligible post-secondary courses in which the students enroll and do not earn credit.

37 (5) If, after participating in good faith negotiations, a school district and an eligible post-  
38 secondary institution are unable to agree on the payment of actual instructional costs as described  
39 in subsection (3) of this section, either entity may appeal to the department for a determination of  
40 whether the negotiations were conducted in good faith.

41 (6) The department shall develop a process and criteria to use for appeals.

42 (7)(a) If the department determines that the negotiations were not conducted in good faith by  
43 either the school district or the eligible post-secondary institution, the department shall order the  
44 school district and the eligible post-secondary institution to conduct the negotiations again.

45 (b) If the department determines that the negotiations were conducted in good faith by the



1 school district and the eligible post-secondary institution, the department shall grant the school  
 2 district a waiver under ORS 340.083 from participating in the Expanded Options Program with the  
 3 eligible post-secondary institution with which the school district was negotiating.

4 (8) The decision of the department shall be binding on the school district and the eligible post-  
 5 secondary institution.

6 (9) In addition to any financial agreement entered into under subsection (3) of this section, the  
 7 resident school district of the eligible student shall enter into an agreement with an eligible post-  
 8 secondary institution that accepts a student for enrollment in an eligible post-secondary course that  
 9 is a nontuition course or noncredit course pursuant to ORS 340.030 for the payment of the actual  
 10 instructional costs associated with the student's attending the eligible post-secondary course at the  
 11 institution.

12 (10) Nothing in this section shall prohibit an eligible post-secondary institution from receiving  
 13 additional state funding that may be available under any other law.

14 **SECTION 21.** ORS 340.065 is amended to read:

15 340.065. (1) A resident school district may provide transportation services to eligible students  
 16 who attend eligible post-secondary institutions within any education service district boundaries of  
 17 which the school district is a component school district.

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

20 **SECTION 22. The Declining Enrollment Fund is established separate and distinct from**  
 21 **the General Fund. Moneys in the Declining Enrollment Fund are continuously appropriated**  
 22 **to the Department of Education for the purpose of the declining enrollment grant program**  
 23 **created by section 23 of this 2009 Act. Interest earned by the fund shall be credited to the**  
 24 **fund. Any moneys in the fund that are not distributed by the department in a fiscal year**  
 25 **shall be retained in the fund and may be distributed in the next fiscal year.**

26 **SECTION 23.** (1) As used in this section:

27 (a) "ADM" has the meaning given that term in ORS 327.006.

28 (b) "Declining enrollment school district" means a school district that has a decline in  
 29 ADM:

30 (A) That is greater than 10 percent in any two-year period during the preceding six dis-  
 31 tribution years; or

32 (B) For each of the preceding 10 distribution years.

33 (2) The declining enrollment grant program is created. Subject to rules of the State  
 34 Board of Education, the Superintendent of Public Instruction shall disburse in each distrib-  
 35 ution year a declining enrollment grant to each declining enrollment school district from the  
 36 Declining Enrollment Fund established by section 23 of this 2009 Act.

37 (3) Declining enrollment grant = funding amount  $\times$  decline in ADM of the declining en-  
 38 rollment school district over the two-year period used to qualify as a declining enrollment  
 39 school district under subsection (1)(b)(A) of this section or the 10-year period used to qualify  
 40 as a declining enrollment school district under subsection (1)(b)(B) of this section. For the  
 41 purpose of the calculation made under this subsection:

42 (a) The funding amount shall be calculated by the Superintendent of Public Instruction  
 43 to distribute as nearly as practicable the total sum available for distribution to declining  
 44 enrollment school districts under this section.

45 (b) Notwithstanding paragraph (a) of this subsection, a declining enrollment school dis-

1 trict may not receive a declining enrollment grant for any distribution year that is more  
2 than \$500,000.

3 (4) The State Board of Education may adopt any rules necessary to administer this sec-  
4 tion.

5 **SECTION 24.** In addition to and not in lieu of any other appropriation, there is appro-  
6 priated to the Department of Education, for the biennium beginning July 1, 2009, out of the  
7 General Fund, the amount of \$15 million for the Declining Enrollment Fund for the purpose  
8 of the declining enrollment grant program created by section 24 of this 2009 Act.

9 **SECTION 25.** Sections 3 and 23 of this 2009 Act and the amendments to ORS 294.447,  
10 327.008, 327.013, 327.019, 327.026, 327.061, 327.095, 327.099, 327.101, 327.297, 327.336, 327.731,  
11 338.157, 338.165, 340.045 and 340.065 by sections 1 and 4 to 21 of this 2009 Act apply to State  
12 School Fund distributions commencing with the 2009-2010 distribution.

13 **SECTION 26.** This 2009 Act being necessary for the immediate preservation of the public  
14 peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect  
15 July 1, 2009.