

Enrolled
House Bill 2834

Sponsored by Representative GELSER; Representatives BARNHART, BERGER, KOTEK

CHAPTER

AN ACT

Relating to the Oregon School for the Blind; creating new provisions; amending ORS 179.210, 179.460, 238.350, 240.205, 240.240, 326.543, 326.603, 327.023, 339.370, 339.877, 343.236, 343.239, 346.010, 346.015, 346.017, 346.019, 346.020, 346.030, 346.041, 346.047, 346.055, 346.080 and 656.135; repealing ORS 346.097, 346.099, 346.101 and 346.104 and section 53, chapter 858, Oregon Laws 2007; appropriating money; limiting expenditures; and declaring an emergency.

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

SECTION 1. Prior to September 1, 2009, the Superintendent of Public Instruction shall close the Oregon School for the Blind.

SECTION 2. On September 1, 2009, the Board of Directors of the Oregon School for the Blind is abolished and the tenure of office of the members of the Board of Directors of the Oregon School for the Blind ceases.

SECTION 3. (1) Prior to August 1, 2009, the Department of Education shall ensure that a comprehensive transition plan is developed for each student of the Oregon School for the Blind who:

- (a) Was enrolled in the Oregon School for the Blind on March 1, 2009;**
- (b) Expected to be enrolled in the Oregon School for the Blind during the 2009-2010 school year; and**
- (c) Is under 21 years of age on September 1, 2009.**

(2)(a) For the purpose of assisting in the development of a comprehensive transition plan under this section, the Department of Human Services shall ensure that each student described in subsection (1) of this section is screened and evaluated to determine the student's eligibility for services offered by the community mental health and developmental disabilities program serving the community where a student will be located after the closure of the Oregon School for the Blind.

(b) A student who is determined to be eligible for services provided by a community mental health and developmental disabilities program shall have priority access to the services, including any community-based support services and family support services.

(3)(a) A comprehensive transition plan developed under this section shall provide students described in subsection (1) of this section with a plan to receive appropriate resources and services, including educational services, to ensure a successful transition to the community where the student will be located after the closure of the Oregon School for the Blind.

(b) The educational services offered to a student under a comprehensive transition plan shall be substantially equivalent to the level, frequency and type of educational services of-

ferred to the student when the student was enrolled in the Oregon School for the Blind, except that the comprehensive transition plan need not include residential services.

(c) A comprehensive transition plan may provide for any of the following:

(A) The purchase of assistive technology;

(B) The purchase of needed equipment, adaptive curriculum and materials;

(C) Staff training and development for the school district where the student will be located after the closure of the Oregon School for the Blind;

(D) The development of behavior support plans, including training for families to support continued growth and safety at home and school; and

(E) Any other resources and services that may help a student successfully transition to the community where the student will be located after the closure of the Oregon School for the Blind.

(4)(a) A comprehensive transition plan developed under this section shall be developed by:

(A) The members of the student's individualized education program team;

(B) A representative from the regional program authorized under ORS 343.236 (1)(a)(A) and (C) that provides services to the region where the student will be located;

(C) The principal of the school that the student will attend;

(D) If appropriate, a representative of a provider of vocational rehabilitation services or the youth transition program that serves the community where the student will be located;

(E) If appropriate, a representative of the community mental health and developmental disabilities program that serves the community where the student will be located; and

(F) One person who provided educational services to the student when the student was enrolled at the Oregon School for the Blind.

(b) In addition to the persons identified under paragraph (a) of this subsection, the student or a parent of the student may invite any person with knowledge of the student's needs to participate in the development of a comprehensive transition plan.

SECTION 4. (1) Except as otherwise provided by a collective bargaining agreement, a public employer shall give preference for a vacant position to an otherwise qualified person who worked for the Oregon School for the Blind.

(2) The Department of Education shall facilitate communication between:

(a) Persons who were employed at the Oregon School for the Blind at the time the school closed; and

(b) School districts recruiting to hire persons with the skills or credentials that a person who worked at the Oregon School for the Blind may have.

(3) The Personnel Division of the Oregon Department of Administrative Services shall facilitate communication between:

(a) Persons who were employed at the Oregon School for the Blind at the time the school closed; and

(b) Political subdivisions recruiting to hire persons with the skills or experience that a person who worked at the Oregon School for the Blind may have.

SECTION 5. Section 4 of this 2009 Act is repealed July 1, 2012.

SECTION 6. (1) The Oregon Department of Administrative Services, in consultation with the Department of Education and other interested parties, shall develop a plan for the sale of the real property owned by the Department of Education known as the Oregon School for the Blind.

(2) For the period beginning July 1, 2009, and ending on the date that title is transferred to a purchaser, the Oregon Department of Administrative Services shall hold the real property described in subsection (1) of this section in trust. While held in trust, any proceeds related to the real property must first be used to reimburse expenditures incurred by the Oregon Department of Administrative Services in holding the property in trust. Proceeds

in excess of the reimbursements shall be transferred to the Education Stability Fund established under ORS 348.696.

(3) Notwithstanding ORS 270.100 to 270.190, the Oregon Department of Administrative Services shall sell the real property described in subsection (1) of this section in a manner consistent with this section. The Oregon Department of Administrative Services may engage the services of a licensed real estate broker or real estate organization or any other professional necessary to facilitate the sale of the real property.

(4) The sale price of the real property described in subsection (1) of this section:

(a) Must equal or exceed the fair market value of the real property; and

(b) Shall be determined by the Oregon Department of Administrative Services.

(5)(a) The Oregon Department of Administrative Services shall retain from the sale of the real property described in subsection (1) of this section the costs incurred by the state in selling the real property, including:

(A) Costs incurred by the Department of Education in transferring the real property to the Oregon Department of Administrative Services;

(B) Any costs incurred by the Oregon Department of Administrative Services in holding the real property in trust that are not reimbursed as provided by subsection (2) of this section or by appropriation or other source of moneys; and

(C) Costs incurred by the Oregon Department of Administrative Services in selling the real property.

(b) The Oregon Department of Administrative Services and the Department of Education shall be reimbursed for any costs described in paragraph (a) of this subsection from the amount retained as provided by paragraph (a) of this subsection.

(c) Proceeds from the sale of the real property that remain after the amounts described in paragraph (a) of this subsection have been retained shall be transferred to the Education Stability Fund established under ORS 348.696.

(6)(a) Except for property described in subsection (1) of this section, all other property of the Oregon School for the Blind:

(A) When practicable, shall be distributed to the regional program described in ORS 343.236 (1)(b) or to the school districts providing educational services to students described in section 3 (1) of this 2009 Act; and

(B) May be preserved in a manner determined by the Superintendent of Public Instruction if the property has historic significance.

(b) Proceeds from the sale, lease or other action related to the property described in this subsection shall be transferred to the Education Stability Fund.

SECTION 7. (1) The Blind and Visually Impaired Student Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Blind and Visually Impaired Student Fund shall be credited to the Blind and Visually Impaired Student Fund.

(2) Moneys in the Blind and Visually Impaired Student Fund are continuously appropriated to the Department of Education for the purposes of:

(a) Assisting students who are blind or visually impaired in receiving appropriate resources and services, including educational services, in the communities where the students reside;

(b) Supplementing funds available to regional programs authorized under ORS 343.236 (1)(a)(A) and (C) to ensure access to the expanded core curriculum for students who are blind or visually impaired;

(c) Coordinating professional development of persons who provide educational services to students who are blind or visually impaired;

(d) Providing technical assistance for the purpose of providing educational services to students who are blind or visually impaired; and

(e) Coordinating activities for the benefit of students who are blind or visually impaired.

(3) When determining the manner in which to spend the moneys in the Blind and Visually Impaired Student Fund, the Department of Education shall:

(a) Give priority to services or resources used by students described in section 3 (1) of this 2009 Act; and

(b) Ensure that the moneys are used in addition to any other available moneys and do not supplant moneys available from any other source.

SECTION 8. Section 7 of this 2009 Act is amended to read:

Sec. 7. (1) The Blind and Visually Impaired Student Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Blind and Visually Impaired Student Fund shall be credited to the Blind and Visually Impaired Student Fund.

(2) Moneys in the Blind and Visually Impaired Student Fund are continuously appropriated to the Department of Education for the purposes of:

(a) Assisting students who are blind or visually impaired in receiving appropriate resources and services, including educational services, in the communities where the students reside;

(b) Supplementing funds available to regional programs authorized under ORS 343.236 (1)(a)(A) and (C) to ensure access to the expanded core curriculum for students who are blind or visually impaired;

(c) Coordinating professional development of persons who provide educational services to students who are blind or visually impaired;

(d) Providing technical assistance for the purpose of providing educational services to students who are blind or visually impaired; and

(e) Coordinating activities for the benefit of students who are blind or visually impaired.

(3) When determining the manner in which to spend the moneys in the Blind and Visually Impaired Student Fund, the Department of Education shall[.]

[(a) Give priority to services or resources used by students described in section 3 (1) of this 2009 Act; and]

[(b)] ensure that the moneys are used in addition to any other available moneys and do not supplant moneys available from any other source.

SECTION 9. The amendments to section 7 of this 2009 Act by section 8 of this 2009 Act become operative June 30, 2020.

SECTION 10. There is appropriated to the Department of Education, for the biennium beginning July 1, 2009, out of the General Fund, to be deposited in the Blind and Visually Impaired Student Fund established under section 7 of this 2009 Act, the amount of \$2,985,218 for the purposes described in section 7 (2) of this 2009 Act.

SECTION 11. ORS 343.236 is amended to read:

343.236. (1)(a) The Superintendent of Public Instruction may provide special education on a local, county or regional basis without regard to county boundaries in all areas of the state for children who have:

[(a)] (A) A visual impairment;

[(b)] (B) A hearing impairment;

[(c)] (C) Blindness or deafness, or both;

[(d)] (D) An orthopedic impairment;

[(e)] (E) Autism; or

[(f)] (F) Traumatic brain injury.

(b) The superintendent shall designate one of the regional programs that provides special education to children who are blind or visually impaired to provide statewide coordination and technical assistance related to:

(A) The provision of services described in section 7 (2) of this 2009 Act; and

(B) The transition of students from the Oregon School for the Blind to the communities and school districts where the students will be located after the closure of the Oregon School for the Blind.

(c) The program designated under paragraph (b) of this subsection may receive moneys from the Blind and Visually Impaired Student Fund established under section 7 of this 2009 Act and distribute those moneys to other regional programs.

(2) The Superintendent of Public Instruction may operate and administer a local, county or regional program of special education or the superintendent may contract for the operation and administration of the program with a school district or an education service district.

(3) The State Board of Education by rule shall establish eligibility criteria and educational standards for the programs described in subsection (1) of this section and those programs in [schools] **the school** operated under ORS 346.010.

(4) A school district which contracts to provide a program under this section shall be paid for the state-approved program as determined and funded by the Legislative Assembly. Contracting school districts are authorized to negotiate supplemental programs with participating school districts.

SECTION 12. ORS 343.236, as amended by section 11 of this 2009 Act, is amended to read:

343.236. (1)(a) The Superintendent of Public Instruction may provide special education on a local, county or regional basis without regard to county boundaries in all areas of the state for children who have:

- (A) A visual impairment;
- (B) A hearing impairment;
- (C) Blindness or deafness, or both;
- (D) An orthopedic impairment;
- (E) Autism; or
- (F) Traumatic brain injury.

(b) The superintendent shall designate one of the regional programs that provides special education to children who are blind or visually impaired to provide statewide coordination and technical assistance related to[:]

[A] the provision of services described in section 7 (2) of this 2009 Act; and]

[B] *The transition of students from the Oregon School for the Blind to the communities and school districts where the students will be located after the closure of the Oregon School for the Blind.*

(c) The program designated under paragraph (b) of this subsection may receive moneys from the Blind and Visually Impaired Student Fund established under section 7 of this 2009 Act and distribute those moneys to other regional programs.

(2) The Superintendent of Public Instruction may operate and administer a local, county or regional program of special education or the superintendent may contract for the operation and administration of the program with a school district or an education service district.

(3) The State Board of Education by rule shall establish eligibility criteria and educational standards for the programs described in subsection (1) of this section and those programs in the school operated under ORS 346.010.

(4) A school district which contracts to provide a program under this section shall be paid for the state-approved program as determined and funded by the Legislative Assembly. Contracting school districts are authorized to negotiate supplemental programs with participating school districts.

SECTION 13. The amendments to ORS 343.236 by section 12 of this 2009 Act become operative September 1, 2010.

SECTION 14. ORS 179.210 is amended to read:

179.210. (1) The Department of Human Services, the Department of Corrections and the Superintendent of Public Instruction may audit, allow and pay a claim for damage to property made by an employee of one of those agencies if:

(a) The damage to property arises out of the claimant's employment at one of the institutions or facilities operated by the Department of Human Services or the Department of Corrections, or [one of the schools] **the school** operated by the Superintendent of Public Instruction under ORS 346.010; and

(b) The employee files a written claim with the employee's employer within 180 days after the employee discovers or should have discovered the damage.

(2) No claim under subsection (1) of this section shall be paid:

(a) That exceeds, in the aggregate with payments of other claims, the moneys appropriated for such purpose.

(b) To the extent that the person incurring damage has been or may be compensated by liability insurance or otherwise.

(c) If the Department of Human Services, the Department of Corrections or the Superintendent of Public Instruction determines the cause or occasion of the accident resulting in damage is chargeable to the conduct or negligence of the party damaged.

SECTION 15. ORS 179.460 is amended to read:

179.460. (1) In order to encourage industry and thereby increase productiveness in the institutions, the Department of Corrections and the Department of Human Services shall prescribe rules and regulations for the sale and exchange of surplus products of each.

(2) The funds derived from the sale of the surplus products shall be paid into the State Treasury and become a part of a fund to be known as the State Institutional Betterment Fund, which fund shall be expended by the Department of Corrections and the Department of Human Services, respectively, for the benefit of the institutions in proportion to the amount earned by each.

(3) The provisions of this section apply to [*schools*] **the school** operated under ORS 346.010.

SECTION 16. ORS 238.350 is amended to read:

238.350. (1)(a) Upon the request by a public employer that its employees be compensated for accumulated unused sick leave with pay in the form of increased retirement benefits upon service or disability retirement, the board shall establish a procedure for adding to the gross amount of salary used in determining final average salary the monetary value of one-half of the accumulated unused sick leave with pay of each retiring employee of the requesting public employer and shall establish benefits of the retiring employee on the basis of a final average salary reflecting that addition.

(b) For employees of a common school district, a union high school district, an education service district or a community college, or employees of the State Board of Higher Education engaged in teaching or other school activity at an institution of higher education, or employees of [*schools*] **the school** operated under ORS 346.010 engaged in teaching or other school activity, who are employed under contract for a period of less than 12 consecutive months and who are entitled to sick leave with pay of less than 96 hours for a year, each hour of accumulated unused sick leave with pay shall be valued on the basis of the actual number of contract hours of employment during the last year of contributing membership of an employee before retiring and the salary of the employee during the same period. This paragraph does not apply to any employee who is employed under contract for 12 consecutive months in any of the three or less years used in determining the final average salary of the employee.

(c) For the purpose of this subsection, accumulated unused sick leave with pay includes unused sick leave with pay accumulated by an active member of the system while in the service of any public employer participating in the system that has the request described in paragraph (a) of this subsection in effect at the time of the member's separation from the service of the employer, whether that employer is or is not the employer of the member at the time of the member's retirement.

(d) The board shall establish rules requiring all public employers participating in the system to transmit to the board reports of unused sick leave with pay accumulated by their employees who are members of the system and to provide timely notification to each of those employees of unused sick leave with pay accumulated by the employee and reported to the board.

(2) Accumulated unused sick leave with pay may be considered for the purpose of subsection (1) of this section only in accordance with the following requirements:

(a) Sick leave not credited at the rate actually provided by the public employer may not be considered. The amount of sick leave exceeding an amount credited at the lowest rate in effect for

any employee of the public employer who is normally entitled to sick leave, and in any event exceeding an amount credited at a rate of eight hours for each full month worked, may not be considered.

(b) Sick leave credited for periods when an employee was absent from employment on sabbatical leave, educational leave or any leave without pay may not be considered.

(c) Any period during which an employee was absent from employment for illness or injury that was charged against sick leave not qualified for consideration shall be deducted from sick leave qualified for consideration.

(d) Sick leave for any period for which the public employer provides no sick leave with pay for its employees may not be considered.

(e) Sick leave accumulated on and after July 1, 1973, may be considered only to the extent it is supported by records of accumulation and use pursuant to a plan adopted formally by the public employer.

(f) Accumulated unused sick leave for periods before July 1, 1973, may be considered as follows:

(A) If any department, bureau or other organizational unit of a public employer maintained formal records of accumulation and use even though the public employer did not require that those records be maintained, the accumulated unused sick leave shall be considered according to those records.

(B) Where the public employer provided sick leave before July 1, 1973, but formal records of accumulation and use were not required or if required, are unavailable or incomplete, or the sick leave was subject to administrative limitations on total accumulation or transfer between public employers, accumulated unused sick leave for periods before July 1, 1973, may be considered as equal to 2.675 hours for each full month worked or an amount per month equal to the average monthly accumulation by an employee during the period beginning July 1, 1973, and ending at the time of retirement, whichever amount is greater, but reduced by the amount of any accumulated unused sick leave credited to the employee on July 1, 1973.

(g) The written certification of a member or former member of the Legislative Assembly shall constitute a formal record of accumulation and use in determining the amount of accumulated unused sick leave of an employee of the Legislative Assembly, either of its houses or any of its committees or officers for periods of employment before July 1, 1981. Sick leave accumulated on and after July 1, 1981, by employees of the Legislative Assembly, either of its houses or any of its committees or officers may be considered only to the extent it is supported by records of accumulation and use maintained by the Legislative Administration Committee, or any statutory, standing, special or interim committee of the Legislative Assembly or either house thereof, or any constitutional or statutory office of the Legislative Assembly or either house thereof, pursuant to a plan adopted formally by the committee or officer.

(3)(a) As used in this subsection, "legislative employee" means any person employed by the Legislative Assembly, either of its houses or any of its committees or officers, but does not include a regular employee of a statutory committee or statutory office of the Legislative Assembly described in ORS 173.005 (1).

(b) Upon the request of a retiring legislative employee who is a member of the system, and the request of the public employer of the legislative employee, that the legislative employee be compensated for accumulated unused vacation with pay for periods of legislative employment in the form of increased retirement benefits upon service or disability retirement, the board shall add to the gross amount of salary used in determining final average salary of the legislative employee the monetary value of one-half of the accumulated unused vacation with pay of the legislative employee and shall establish the benefits of the legislative employee on the basis of a final average salary reflecting that addition.

(c) Accumulated unused vacation with pay may be considered for the purposes of paragraph (b) of this subsection only in accordance with the following requirements:

(A) Vacation not credited at the rate actually provided by the public employer may not be considered.

(B) Amounts of vacation exceeding amounts creditable to employees in the classified service of the state service pursuant to ORS 240.515 (1), and rules adopted pursuant thereto, in effect on June 30, 1981, shall not be considered.

(C) Vacation accumulated before, on and after July 1, 1981, may be considered only to the extent it is supported by records of accumulation and use pursuant to a plan adopted formally by the public employer. However, the written certification of a member or former member of the Legislative Assembly shall constitute a formal record of accumulation and use in determining the amount of accumulated unused vacation of a legislative employee for periods of legislative employment before July 1, 1981.

(4) Employers with plans providing payments on account of sickness in lieu of sick leave with pay may request the board to consider the monetary value of accumulated unused payments on account of sickness as if such payments were an equivalent amount of accumulated unused sick leave with pay under the same terms and conditions specified in subsections (1) and (2) of this section.

SECTION 17. ORS 240.205 is amended to read:

240.205. The unclassified service shall comprise:

(1) One executive officer and one secretary for each board or commission, the members of which are elected officers or are appointed by the Governor.

(2) The director of each department of state government, each full-time salaried head of a state agency required by law to be appointed by the Governor and each full-time salaried member of a board or commission required by law to be appointed by the Governor.

(3) The administrator of each division within a department of state government required by law to be appointed by the director of the department with the approval of the Governor.

(4) Principal assistants and deputies and one private secretary for each executive or administrative officer specified in ORS 240.200 (1) and in subsections (1) to (3) of this section. "Deputy" means the deputy or deputies to an executive or administrative officer listed in subsections (1) to (3) of this section who is authorized to exercise that officer's authority upon absence of the officer. "Principal assistant" means a manager of a major agency organizational component who reports directly to an executive or administrative officer listed in subsections (1) to (3) of this section or deputy and who is designated as such by that executive or administrative officer with the approval of the Director of the Oregon Department of Administrative Services.

(5) Employees in the Governor's office and the principal assistant and private secretary in the Secretary of State's division.

(6) The director, principals, instructors and teachers in [schools] **the school** operated under ORS 346.010.

(7) Apprentice trainees only during the prescribed length of their course of training.

(8) Licensed physicians and dentists employed in their professional capacities and student nurses, interns, and patient or inmate help in state institutions.

(9) Lawyers employed in their professional capacities.

(10) All members of the Oregon State Police appointed under ORS 181.250 and 181.265.

(11) Deputy superintendents and associate superintendents in the Department of Education.

(12) Temporary seasonal farm laborers engaged in single phases of agricultural production or harvesting.

(13) Any individual employed and paid from federal funds received under the Emergency Job and Unemployment Assistance Act of 1974 (United States Public Law 93-567) or any other federal program intended primarily to alleviate unemployment. However, persons employed under this subsection shall be treated as classified employees for purposes of ORS 243.650 to 243.782.

(14) Managers, department heads, directors, producers and announcers of the state radio and television network.

(15) Employees, including managers, of the foreign trade offices of the Economic and Community Development Department located outside the country.

(16) Any other position designated by law as unclassified.

SECTION 18. ORS 240.240 is amended to read:

240.240. (1) The unclassified service or, except as provided in ORS 240.250, the management service shall not be subject to this chapter, except that employees and officers in the unclassified or management service shall be subject to the laws, rules and policies pertaining to any type of leave with pay except as otherwise provided in subsections (4) and (5) of this section, and shall be subject to the laws, rules and policies pertaining to salary plans except as otherwise provided in subsections (3) and (5) of this section.

(2) With regard to any unclassified or management service position for which the salary is not fixed by law, and except as otherwise provided in subsections (3) and (5) of this section, the Personnel Division shall adopt a salary plan which is equitably applied to various categories in the unclassified or management service and is in reasonable conformity with the general salary structure of the state. The division shall maintain this unclassified and management salary plan in accordance with the procedures established for the classified salary plan as provided in ORS 240.235.

(3) The Secretary of State and the State Treasurer, for the purpose of maintaining a salary plan for unclassified and management service positions in their departments, may request the advice and assistance of the division.

(4) With regard to unclassified instructors and teachers under annual teaching contracts for an academic year in [schools] **the school** operated under ORS 346.010, arrangements for leave with pay shall be established by the Department of Education.

(5) With regard to unclassified positions in the Economic and Community Development Department's foreign offices, the salary plan and arrangements for leave with pay shall be established by the Director of the Economic and Community Development Department.

SECTION 19. ORS 326.543 is amended to read:

326.543. (1) As used in this section:

- (a) "Education service district" has the meaning given that term in ORS 334.003.
- (b) "Facility" means [a school described in] **the school operated under** ORS 346.010.
- (c) "Post-secondary institution" means:
 - (A) A community college as defined in ORS 341.005;
 - (B) A state institution of higher education listed in ORS 352.002; and
 - (C) The Oregon Health and Science University.
- (d) "School district" has the meaning given that term in ORS 330.005.

(2) The interest or estate of an education service district, a facility, a post-secondary institution or a school district in any real property may not be extinguished or diminished by adverse possession.

SECTION 20. ORS 326.603 is amended to read:

326.603. (1) For the purposes of requesting a state or nationwide criminal records check under ORS 181.534, the Department of Education may require the fingerprints of:

(a) A school district or private school contractor, whether part-time or full-time, or an employee thereof, whether part-time or full-time, who has direct, unsupervised contact with students as determined by the district or private school.

(b) A person newly hired, whether part-time or full-time, by a school district or private school in a capacity not described in ORS 342.223 (1) who has direct, unsupervised contact with children as determined by the district or private school.

(c) A person employed, whether part-time or full-time, by a school district or private school in a capacity not described in ORS 342.223 (1) who has direct, unsupervised contact with children as determined by the district or private school.

(d) A person who is a community college faculty member providing instruction at a kindergarten through grade 12 school site during the regular school day.

(e) A person who is an employee of a public charter school.

(2)(a) A school district shall send to the Department of Education for purposes of a criminal records check any information, including fingerprints, for each person described in subsection (1) of this section.

(b) A private school may send to the Department of Education for purposes of a criminal records check any information, including fingerprints, for each person described in subsection (1)(a), (b), (c) or (d) of this section.

(3) The Department of Education shall request that the Department of State Police conduct a criminal records check as provided in ORS 181.534 and may charge the district or private school a fee as established by rule under ORS 181.534. The school district or private school may recover its costs or a portion thereof from the person described in subsection (1) of this section. If the person described in subsection (1)(b), (c) or (e) of this section requests, the district shall and a private school may withhold the amount from amounts otherwise due the person, including a periodic payroll deduction rather than a lump sum payment.

(4) Notwithstanding subsection (1) of this section, the department may not require fingerprints of a person described in subsection (1) of this section if the person or the person's employer was checked in one school district or private school and is currently seeking to work in another district or private school unless the person lived outside this state during the interval between the two periods of time of working in the district or private school.

(5) Nothing in this section requires a person described in subsection (1)(a), (b) or (e) of this section to submit to fingerprinting until the person has been offered employment or a contract by a school district or private school. Contractor employees may not be required to submit to fingerprinting until the contractor has been offered a contract.

(6)(a) If the Superintendent of Public Instruction informs the school district that the person has been convicted of a crime listed in ORS 342.143 or has made a false statement as to the conviction of a crime, the superintendent shall notify the school district of the fact and the district shall not employ or contract with the person. Notification by the superintendent that the school district shall not employ or contract with the person shall remove the person from any school district policies, collective bargaining provisions regarding dismissal procedures and appeals and the provisions of ORS 342.805 to 342.937.

(b) The Superintendent of Public Instruction shall notify the private school if the person has been convicted of a crime listed in ORS 342.143 or has made a false statement as to the conviction of a crime. Based on the notice, the private school may choose not to employ or contract with the person.

(7) If a person described in subsection (1) of this section refuses to consent to the criminal records check or refuses to be fingerprinted or if the person falsely swears to the nonconviction of a crime, the district shall terminate the employment or contract status of the person. Termination under this subsection removes the person from any school district policies, collective bargaining provisions regarding dismissal procedures and appeals and the provisions of ORS 342.805 to 342.937.

(8) A school district may not hire or continue to employ or contract with or allow the contractor to continue to assign a person to the school project if the person described in subsection (1) of this section has been convicted of a crime according to the provisions of ORS 342.143.

(9) As used in this section and ORS 326.607:

(a) "Private school" means a school that provides educational services as defined in ORS 345.505 and is registered as a private school under ORS 345.505 to 345.575.

(b) "School district" means:

(A) A school district as defined in ORS 330.003.

[(B) *The Oregon School for the Blind.*]

[(C)] (B) The Oregon School for the Deaf.

[(D)] (C) An educational program under the Youth Corrections Education Program.

[(E)] (D) A public charter school as defined in ORS 338.005.

[(F)] (E) An education service district.

SECTION 21. ORS 327.023 is amended to read:

327.023. In addition to those moneys distributed through the State School Fund, the Department of Education shall provide from state funds appropriated therefor, grants in aid or support for special and compensatory education programs including:

- (1) [*The Oregon School for the Blind and*] The Oregon School for the Deaf.
- (2) Medicaid match for administration efforts to secure Medicaid funds for services provided to children with disabilities.
- (3) Hospital programs for education services to children who are hospitalized for extended periods of time or who require hospitalization due to severe disabilities as described in ORS 343.261.
- (4) Private agency programs for education services to children who are placed by the state in long term care or treatment facilities as described in ORS 343.961.
- (5) Regional services provided to children with low-incidence disabling conditions as described in ORS 343.236.
- (6) Early childhood special education provided to preschool children with disabilities from age three until age of eligibility for kindergarten as described in ORS 339.185, 343.035, 343.041, 343.055, 343.065, 343.157 and 343.455 to 343.534.
- (7) Early intervention services for preschool children from birth until age three as described in ORS 339.185, 343.035, 343.041, 343.055, 343.065, 343.157 and 343.455 to 343.534.
- (8) Evaluation services for children with disabilities to determine program eligibility and needs as described in ORS 343.146.
- (9) Education services to children residing at state hospitals.
- (10) Disadvantaged children program under ORS 343.680.
- (11) Early childhood education under ORS 329.228 and 329.235.
- (12) Child development specialist program under ORS 329.255.
- (13) Youth care centers under ORS 420.885.
- (14) Staff development and mentoring.
- (15) Professional technical education grants.
- (16) Special science education programs.
- (17) Talented and Gifted children program under ORS 343.391 to 343.413.

SECTION 22. ORS 339.370 is amended to read:

339.370. As used in this section and ORS 339.372, 339.375 and 339.377:

- (1) "Abuse" has the meaning given that term in ORS 419B.005.
- (2) "Disciplinary records" means the records related to a personnel discipline action or materials or documents supporting that action.
- (3) "Education provider" means:
 - (a) A school district as defined in ORS 332.002.
 - [(b) *The Oregon School for the Blind.*]
 - [(c) (b) The Oregon School for the Deaf.
 - [(d) (c) An educational program under the Youth Corrections Education Program.
 - [(e) (d) A public charter school as defined in ORS 338.005.
 - [(f) (e) An education service district as defined in ORS 334.003.
 - [(g) (f) Any state-operated program that provides educational services to kindergarten through grade 12 students.
 - [(h) (g) A private school.
- (4) "Law enforcement agency" has the meaning given that term in ORS 419B.005.
- (5) "Private school" means a school that provides educational services as defined in ORS 345.505 to kindergarten through grade 12 students.
- (6) "School board" means the governing board or governing body of an education provider.
- (7) "School employee" means an employee of an education provider.

SECTION 23. ORS 339.877 is amended to read:

339.877. (1) Any person other than a student at the Oregon School for the Deaf [*or the Oregon School for the Blind*] upon successful completion of an educational program at elementary or secondary level at a state institution shall receive a diploma evidencing such completion issued by the common or union high school district in which the person last resided prior to commitment to the state institution.

(2) All educational records for the person shall be sent to the common or union high school district issuing the diploma. The school district may make a transcript of such records available upon request in the same manner and in the same form as it makes any other transcript available and shall not therein indicate that any of the educational program was completed in any state institution.

SECTION 24. ORS 343.239 is amended to read:

343.239. (1) The Department of Education shall bill annually each resident school district for children who are residents of the school district and are served under ORS 343.236 or enrolled in a [program] **school operated** under ORS 346.010.

(2) A billing under this section shall be in an amount equal to (the amount of federal funds received by the school district through the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., divided by the number of eligible children under the Individuals with Disabilities Education Act who are reported by the school district as receiving special education services on the December 1 special education census) multiplied by the number of children who are eligible under the Individuals with Disabilities Education Act and served under ORS 343.236 or enrolled in a [program] **school operated** under ORS 346.010.

(3) The department shall notify each resident school district of the estimated amount of the billing no later than March 30 after the December 1 census.

(4) The department shall bill each resident school district no later than the November 1 following the March 30 notification under subsection (3) of this section. The resident school district shall pay the amount of the billing out of the school district's Individuals with Disabilities Education Act grant award no later than January 1 following the November 1 billing. In lieu of payment, a school district may request that the department withhold the billing amount from any unclaimed federal grant funds that are payable to the school district.

(5) The department shall distribute the moneys made available from billings under this section to each program providing services to children under ORS 343.236 or to the [program] **school** in which children are enrolled under ORS 346.010.

SECTION 25. ORS 346.010 is amended to read:

346.010. (1) Pursuant to rules of the State Board of Education, the Superintendent of Public Instruction shall provide free training and education services in [schools] **a school** located in Marion County for children who are [blind or] deaf.

(2) The Superintendent of Public Instruction shall indicate [which school shall serve as the Oregon School for the Blind and which school] **which facilities** shall serve as the Oregon School for the Deaf.

(3) The superintendent may order a change in all or part in the purpose and use of [schools] **the facilities** available under this section whenever the superintendent determines that a change in purpose and use will better enable the state to meet its responsibilities for the education and training of children who are [blind or] deaf.

(4) The [schools] **school** shall be operated primarily for the provision of education and training services for children who are [blind or] deaf who cannot be efficiently served in other schools or programs.

(5) [The Board of Directors of the Oregon School for the Blind or] The Board of Directors of the Oregon School for the Deaf may appeal any decision of the Superintendent of Public Instruction made under this section to the State Board of Education. An appeal under this subsection must be filed with the State Board of Education within 60 days of the date of the decision by the superintendent. The State Board of Education may uphold, modify or overturn any decision of the superintendent under this section.

SECTION 26. ORS 346.015 is amended to read:

346.015. (1) Prior to convening a meeting to prepare an individual education plan for a child with mental retardation or a developmental disability for whom placement at [a school] **the school operated** under ORS 346.010 may be considered, the agency that is providing the education for the child shall notify the local community mental health and developmental disabilities program. The

case manager responsible for programs for children with mental retardation or developmental disabilities, in consultation with the Department of Human Services, shall evaluate whether the child also has needs for alternative residential care or other support services. If the evaluation determines this to be the case, but documents that community resources are not available to meet these needs, the school district may proceed with the meeting to prepare the individual education plan in which placement at [a school] **the school operated** under ORS 346.010 may be considered.

(2) An agency providing education under subsection (1) of this section may initiate the procedure in subsection (1) of this section for any child who does not have mental retardation or a developmental disability when in the agency's judgment a treatment or residential issue is prompting proposed placement under ORS 346.010.

(3) A child may not be placed in [a] **the school operated** under ORS 346.010 unless the district superintendent or the superintendent's designee has signed a statement declaring that the district cannot provide a free appropriate public education for the child commensurate with the needs of the child as identified by the individual education plan of the child and that the school is the least restrictive environment in which the child can be educated.

(4) By rule, the State Board of Education shall determine procedures to be followed by local education agencies in carrying out this section.

SECTION 27. ORS 346.017 is amended to read:

346.017. (1) Notwithstanding ORS 346.015, the Superintendent of Public Instruction may enroll a student in the [schools] **school** operated under ORS 346.010 if the student is not a resident of Oregon. However, priority for enrollment at the [schools] **school** shall be given to students who are residents of Oregon.

(2) The superintendent may charge tuition and fees to any student who is enrolled under this section.

(3) A student who is enrolled under this section is not considered a resident of any school district based on the enrollment and attendance at the school.

SECTION 28. ORS 346.019 is amended to read:

346.019. (1) There is established an Educational Facilities Fund, separate and distinct from the General Fund. All tuition and fees collected under ORS 346.017 and all expenses incurred in the administration of ORS 346.017 shall be deposited to and borne by the fund. Interest earned by the fund shall be credited to the fund.

(2) The moneys in the fund are appropriated continuously to the Department of Education for purposes of the [schools] **school** operated under ORS 346.010.

SECTION 29. ORS 346.020 is amended to read:

346.020. (1) The Superintendent of Public Instruction shall prescribe the course of instruction for students enrolled in [schools] **the school** operated under ORS 346.010. The State Board of Education shall determine the procedures for placement, development of services and operation of the [schools] **school** in conformance with state and federal laws relating to children who are eligible for special education and shall adopt the procedures by rule.

(2) In consultation with the Board of Directors of the Oregon School for the Deaf [*or the Board of Directors of the Oregon School for the Blind, as appropriate*], the Superintendent of Public Instruction shall select a director for [each] **the school**. The superintendent may also select teachers and other personnel necessary to manage the [schools] **school** in an effective and efficient manner or may delegate the selection of teachers and other personnel to the director of the school.

(3) The Superintendent of Public Instruction shall have control over persons enrolled in the [schools] **school** and shall direct their care and promote their mental, moral and physical welfare.

(4) [*The Board of Directors of the Oregon School for the Blind or*] The Board of Directors of the Oregon School for the Deaf may appeal a decision of the Superintendent of Public Instruction to the State Board of Education if the decision was made under subsection (2) of this section and relates to the selection or dismissal of the director of [a] **the school**. An appeal under this subsection must be filed with the State Board of Education within 60 days of the date of the decision by the super-

intendent. The State Board of Education may uphold, modify or overturn any decision of the superintendent under this section.

SECTION 30. ORS 346.030 is amended to read:

346.030. Application for admission to the [schools] **school** operated under ORS 346.010 shall be made to the Department of Education. Application shall be made on forms which are provided by the department.

SECTION 31. ORS 346.041 is amended to read:

346.041. (1) Transportation for pupils attending [schools] **the school operated** under ORS 346.010 is the responsibility of the pupil's resident school district. The district may provide transportation directly or by agreement with another school district, a public carrier or the Department of Education.

(2) The actual and necessary transportation expenses incurred under subsection (1) of this section, at a frequency consistent with a pupil's individual education plan, shall be considered approved transportation costs for purposes of ORS 327.006 and 327.033.

(3) The resident school district shall reimburse the Department of Education for all transportation costs the department incurs on behalf of the district within 10 days after receipt of the itemized invoice.

(4) The payments of the resident school districts required under subsection (3) of this section and an amount specifically appropriated thereto shall be deposited in the State Treasury to the credit of the Special Education Transportation Revolving Account to be used by the Department of Education for the transportation of pupils attending [schools] **the school operated** under ORS 346.010. The account shall be continuously appropriated to the department for such purpose.

(5) Any unexpended and unobligated balance in the Special Education Transportation Revolving Account in excess of \$70,000 as of September 1 of any year shall be transferred from the account to the General Fund to be available for general governmental purposes.

SECTION 32. ORS 346.047 is amended to read:

346.047. The State Board of Education may receive, take and hold property, both real and personal for [any] **the** school operated under ORS 346.010 and may sell, transfer, assign, allot, set over or convey the property pursuant to legislative authority.

SECTION 33. ORS 346.055 is amended to read:

346.055. (1) When the Department of Education has in possession or under control, in a bank account or otherwise, funds that are the property of the students enrolled in [schools] **the school** operated under ORS 346.010 or that have been deposited for their use or for expenditure in their behalf, the department shall deposit such funds, as they are received, together with any such funds as heretofore have accumulated, with the State Treasurer as a trust account, separate and distinct from the General Fund. Interest earned by the account shall be credited to the account.

(2) As used in this section, "funds" includes but is not limited to moneys deposited with the department for medical care or assistance of students, moneys derived from athletic activities, contributions for athletic, health, or recreation projects, and any other moneys received by the department that are not required by law to be credited to other state funds or accounts.

(3) The department is authorized to receive any of the funds referred to in this section. The State Treasurer shall carry [such] **the** funds in separate accounts for [such schools] **the school**, but may not credit [such] **the** funds or any part [thereof] **of the funds** to any state fund for governmental purposes.

(4) Disbursements from the accounts for the purposes for which the contributions or payments were made, and for payment to persons lawfully entitled thereto, may be made by the department, by checks or orders drawn upon the State Treasurer. The department shall be accountable for the proper handling of the accounts.

SECTION 34. ORS 346.080 is amended to read:

346.080. The Department of Education shall give the notice required by ORS 332.554 to all classified employees of the Oregon School for the Deaf [and the Oregon School for the Blind] in the same manner and to the same effect as notice given under ORS 332.554.

SECTION 35. ORS 656.135 is amended to read:

656.135. (1) As used in this section "school" means the Oregon School for the Deaf [*or the Oregon School for the Blind*].

(2) All persons participating as trainees in a work experience program of [*a school in which such persons are enrolled*] **the school** are considered as workers of the school subject to this chapter for purposes of this section.

(3) On behalf of a school conducting a work experience program, the Department of Education shall submit a written statement to the State Accident Insurance Fund Corporation that includes a description of the work to be performed by such persons.

(4) Upon receiving the written statement, the corporation may fix assumed wage rates for the persons enrolled in the work experience program, without regard to ORS chapter 652 or ORS 653.010 to 653.545 and 653.991, which may be used only for purposes of computations under this chapter.

(5) The Department of Education shall furnish the corporation with a list of the names of those enrolled in work experience programs in the [*schools*] **school** and shall notify the corporation of any changes therein. Only those persons whose names appear on such list prior to their personal injury by accident are entitled to the benefits of this chapter and they are entitled to such benefits if injured as provided in ORS 656.156 and 656.202 while performing any duties arising out of and in the course of their participation in the work experience program, provided the duties being performed are among those:

(a) Described on the application of the department; and

(b) Required of similar full-time paid employees.

(6) The filing of claims for benefits under this section is the exclusive remedy of a trainee or beneficiary of the trainee for injuries compensable under this chapter against the state, the school, the department, its officers and employees, or any employer, regardless of negligence.

(7) The provisions of this section shall be inapplicable to any trainee who is earning wages for such employment.

SECTION 36. ORS 346.097, 346.099, 346.101 and 346.104 and section 53, chapter 858, Oregon Laws 2007, are repealed.

SECTION 37. The amendments to ORS 179.210, 179.460, 238.350, 240.205, 240.240, 326.543, 326.603, 327.023, 339.370, 339.877, 343.239, 346.010, 346.015, 346.017, 346.019, 346.020, 346.030, 346.041, 346.047, 346.055, 346.080 and 656.135 by sections 14 to 35 of this 2009 Act and the repeal of ORS 346.097, 346.099, 346.101 and 346.104 and section 53, chapter 858, Oregon Laws 2007, by section 36 of this 2009 Act become operative September 1, 2009.

SECTION 38. (1) In addition to and not in lieu of any other appropriation, there is appropriated to the Emergency Board, for the biennium beginning July 1, 2009, out of the General Fund, the amount of \$2,850,000, to be allocated to the Department of Education, the Department of Human Services and the Oregon Department of Administrative Services for transition costs and other services provided to blind and visually impaired students and for the closure and disposition of the Oregon School for the Blind.

(2) If any of the moneys appropriated by subsection (1) of this section are not allocated by the Emergency Board prior to December 1, 2010, the moneys remaining on that date become available for any purpose for which the Emergency Board lawfully may allocate funds.

SECTION 39. Notwithstanding any other law limiting expenditures, the amount of \$450,000 is established for the biennium beginning July 1, 2009, as the maximum limit for the payment of expenses by the Oregon Department of Administrative Services, from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the department for the purposes of sections 1 to 6 of this 2009 Act.

SECTION 40. This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect on its passage.

Passed by House May 29, 2009

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Chief Clerk of House

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Speaker of House

Passed by Senate June 10, 2009

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President of Senate

Received by Governor:

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

Approved:

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

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Governor

Filed in Office of Secretary of State:

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

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Secretary of State