

# Senate Bill 364

Sponsored by Senator MONROE; Senators BATES, HASS, MONNES ANDERSON, MORRISSETTE, SCHRADER

## 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**.

Requires school districts to offer half-day kindergarten. Allows school districts and charter schools to offer supplemental kindergarten. Changes basis of calculation of aggregate days membership for supplemental kindergarten pupils for purposes of State School Fund distributions.

First applies to 2010-2011 school year.

Takes effect July 1, 2010.

## A BILL FOR AN ACT

1  
2 Relating to kindergarten; creating new provisions; amending ORS 327.006, 327.077, 327.082, 336.092,  
3 336.095, 339.030 and 339.141; and prescribing an effective date.

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

5 **SECTION 1.** ORS 336.092 is amended to read:

6 336.092. As used in ORS 336.092 and 336.095, unless the context requires otherwise:

7 (1) **"Half-day kindergarten" means instructional hours provided at the kindergarten level**  
8 **that meet the minimum number of instructional hours required for kindergarten by rule of**  
9 **the State Board of Education and that meet other standards and rules of the board.**

10 [(1)] (2) "Kindergarten child" means a child five years of age or whose fifth birthday occurs on  
11 or before September 1 or who has been admitted by the district school board under ORS 336.095  
12 [(2)] (3).

13 [(2)] (3) "Kindergarten facilities" includes physical facilities, supplies, equipment and personnel  
14 suitable for the education and training of kindergarten children.

15 [(3)] (4) "Physical facilities" includes but is not limited to public school buildings, rented  
16 buildings which meet health and safety standards or homes used in school district sponsored pro-  
17 grams.

18 (5) **"Supplemental kindergarten" means instructional hours provided at the kindergarten**  
19 **level that exceed the minimum number of instructional hours required for kindergarten by**  
20 **rule of the State Board of Education and that meet other standards and rules of the board.**

21 **SECTION 2.** ORS 336.095 is amended to read:

22 336.095. (1)(a) **A school district must offer half-day kindergarten in one or more schools**  
23 **in the district and may offer supplemental kindergarten in one or more schools in the dis-**  
24 **trict. This paragraph does not apply to union high school districts.**

25 (b) **If a public charter school offers kindergarten, the school must offer half-day**  
26 **kindergarten and may offer supplemental kindergarten.**

27 [(1)] (2) [*The district school board of every common school district shall*] **Every school district**  
28 **must** provide kindergarten facilities free of charge for the kindergarten children residing in the  
29 district by operating such facilities either singly or jointly with other districts or by contracting  
30 with public or private providers that conform to standards adopted by rule by the State Board of

**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 Education. **This subsection does not apply to union high school districts.**

2 [(2)] (3) [*However,*] Nothing in this section prevents a district school board from admitting free  
3 of charge a child who is a resident of the district and whose needs for cognitive, social and physical  
4 development would best be met in the school program, as defined by policies of the district school  
5 board, even though the child has not attained the minimum age requirement.

6 [(3)] (4) Kindergartens established under subsection (1) of this section [*shall be*] **are** funded in  
7 the same manner as other schools of the district are funded.

8 [(4)] (5) Kindergartens are an integral part of the public school system of this state.

9 **SECTION 3.** ORS 327.082 is amended to read:

10 327.082. (1) School districts [*which operate*] **and public charter schools that operate half-day**  
11 **or supplemental** kindergartens, **as those terms are defined in ORS 336.092**, that conform to the  
12 standards and rules adopted by the State Board of Education shall be eligible for apportionments  
13 from the State School Fund on the basis of resident average daily membership in the kindergartens.

14 (2) The apportionments shall be paid in the same manner as other apportionments from the State  
15 School Fund are paid. Computation of the amounts due each district operating a kindergarten shall  
16 be made by the Superintendent of Public Instruction pursuant to rules of the State Board of Edu-  
17 cation. The rules shall establish a method of computation that is consistent with the method of  
18 computation of other apportionments from the State School Fund.

19 **SECTION 4.** ORS 327.006 is amended to read:

20 327.006. As used in ORS 327.006 to 327.133, 327.348, 327.355, 327.357, 327.360 and 327.731:

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

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

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

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

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

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

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

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

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

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

42 (3) "Average daily membership" or "ADM" means the aggregate days membership of a school  
43 during a certain period divided by the number of days the school was actually in session during the  
44 same period. However, if a district school board adopts a class schedule that operates throughout  
45 the year for all or any schools in the district, average daily membership shall be computed by the

1 Department of Education so that the resulting average daily membership will not be higher or lower  
2 than if the board had not adopted such schedule.

3 (4) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers of the  
4 Portland, Oregon, Standard Metropolitan Statistical Area, as compiled by the United States De-  
5 partment of Labor, Bureau of Labor Statistics.

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

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

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

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

19 (B) Whose legal residence is not within the boundaries of the district reporting the pupil but  
20 attends school in the district with the written consent of the affected school district boards.

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

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

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

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

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

37 **SECTION 5.** ORS 327.006, as amended by section 11, chapter 846, Oregon Laws 2007, is  
38 amended to read:

39 327.006. As used in ORS 327.006 to 327.133, 327.348 and 327.731:

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

44 (2)(a) "Approved transportation costs" means those costs as defined by rule of the State Board  
45 of Education and is limited to those costs attributable to transporting or room and board provided

1 in lieu of transporting:

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

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

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

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

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

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

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

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

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

22 (4) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers of the  
23 Portland, Oregon, Standard Metropolitan Statistical Area, as compiled by the United States De-  
24 partment of Labor, Bureau of Labor Statistics.

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

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

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

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

38 (B) Whose legal residence is not within the boundaries of the district reporting the pupil but  
39 attends school in the district with the written consent of the affected school district boards.

40 (b) A pupil shall not be considered to be a resident pupil under paragraph (a)(A) of this sub-  
41 section if the pupil is attending school in another school district pursuant to a contract under ORS  
42 339.125 and in the prior year was considered to be a resident pupil in another school district under  
43 paragraph (a)(B) of this subsection. The pupil shall continue to be considered a resident of another  
44 school district under paragraph (a)(B) of this subsection.

45 (c) A pupil shall not be considered to be a resident pupil under paragraph (a)(B) of this sub-

1 section if the pupil is attending school in a school district pursuant to an agreement with another  
 2 school district under ORS 339.133 and in the prior year was considered to be a resident pupil under  
 3 paragraph (a)(A) of this subsection because the pupil was attending school in another school district  
 4 pursuant to a contract under ORS 339.125. The pupil shall continue to be considered a resident  
 5 pupil under paragraph (a)(A) of this subsection.

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

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

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

11 **SECTION 6.** ORS 327.077 is amended to read:

12 327.077. (1) A school may qualify as a remote small elementary school if the average daily  
 13 membership in [*grades one through*] **kindergarten through grade** eight for an elementary school  
 14 teaching:

15 (a) **Nine grades is below 252.**

16 [(a)] (b) Eight grades is below 224.

17 [(b)] (c) Seven grades is below 196.

18 [(c)] (d) Six grades is below 168.

19 [(d)] (e) Five grades is below 140.

20 [(e)] (f) Four grades is below 112.

21 [(f)] (g) Three grades is below 84.

22 [(g)] (h) Two grades is below 56.

23 [(h)] (i) One grade is below 28.

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

25 (a) The school is in a school district that has an ADMw of less than 8,500; and

26 (b) The average daily membership in grades 9 through 12 for a high school teaching:

27 (A) Four grades is below 350.

28 (B) Three grades is below 267.

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

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

34 (b) The additional amount = {[~~224~~] **252** - (ADM<sub>a</sub> ÷ (number of grades in the school ÷ [*eight*]  
 35 **nine**))} × 0.0045 × ADM<sub>a</sub> × distance adjustment.

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

38 (b) The additional amount = {350 - (ADM<sub>a</sub> ÷ (number of grades in the school ÷ four))} ×  
 39 0.0029 × ADM<sub>a</sub>.

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

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

1 (b) A school may qualify as a small high school under this section only if the location of the  
2 school has not changed since January 1, 1995, and if the school qualified as a small high school on  
3 October 23, 1999.

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

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

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

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

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

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

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

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

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

31 (10) For purposes of this section:

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

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

36 **SECTION 7.** ORS 339.030 is amended to read:

37 339.030. (1) In the following cases, children may not be required to attend public full-time  
38 schools:

39 (a) Children being taught in a private or parochial school in the courses of study usually taught  
40 in [*grades 1 through*] **kindergarten through grade 12** in the public schools and in attendance for  
41 a period equivalent to that required of children attending public schools in the 1994-1995 school  
42 year.

43 (b) Children proving to the satisfaction of the district school board that they have acquired  
44 equivalent knowledge to that acquired in the courses of study taught in [*grades 1 through*]  
45 **kindergarten through grade 12** in the public schools.

1 (c) Children who have received a high school diploma.

2 (d) Children being taught for a period equivalent to that required of children attending public  
 3 schools by a private teacher the courses of study usually taught in [*grades 1 through*] **kindergarten**  
 4 **through grade 12** in the public school.

5 (e) Children being educated in the children’s home by a parent or legal guardian.

6 (f) Children excluded from attendance as provided by law.

7 (2) The State Board of Education by rule shall establish procedures whereby, on a semiannual  
 8 basis, an exemption from compulsory attendance may be granted to the parent or legal guardian of  
 9 any child 16 or 17 years of age who is lawfully employed full-time, lawfully employed part-time and  
 10 enrolled in school, a community college or an alternative education program as defined in ORS  
 11 336.615. An exemption also may be granted to any child who is an emancipated minor or who has  
 12 initiated the procedure for emancipation under ORS 419B.550 to 419B.558.

13 **SECTION 8.** ORS 339.141 is amended to read:

14 339.141. (1) For the purposes of this section:

15 (a) **“Kindergarten” means half-day kindergarten or supplemental kindergarten, as those**  
 16 **terms are defined in ORS 336.092.**

17 [(a)] (b) “Public charter school” has the meaning given that term in ORS 338.005.

18 [(b)] (c) “Regular school program” means the regular curriculum provided in the required full-  
 19 time day sessions in the schools of the district, including public charter schools, for [*grades 1*  
 20 *through*] **kindergarten through grade 12** and the school program for kindergarten during the pe-  
 21 riod of approximately nine months each year when the schools of the district or public charter  
 22 schools are normally in operation and does not include summer sessions or evening sessions.

23 [(c)] (d) “Tuition” means payment for the cost of instruction and does not include fees authorized  
 24 under ORS 339.155.

25 (2) Except as provided in subsection (3) of this section, district school boards and public charter  
 26 schools may establish tuition rates to be paid by pupils receiving instruction in educational pro-  
 27 grams, classes or courses of study, including traffic safety education, which are not a part of the  
 28 regular school program. Tuition charges, if made, shall not exceed the estimated cost to the district  
 29 or public charter school of furnishing the program, class or course of study.

30 (3) Except as provided in ORS 336.805 for traffic safety education:

31 (a) No tuition shall be charged to any resident pupil regularly enrolled in the regular school  
 32 program for special instruction received at any time in connection therewith.

33 (b) No program, class or course of study for which tuition is charged, except courses of study  
 34 beyond the 12th grade, shall be eligible for reimbursement from state funds.

35 **SECTION 9.** (1) **The amendments to ORS 327.006, 327.077 and 327.082 by sections 3 to 6**  
 36 **of this 2009 Act apply to State School Fund distributions commencing with the 2010-2011**  
 37 **distributions.**

38 (2) **The amendments to ORS 336.092, 336.095, 339.030 and 339.141 by sections 1, 2, 7 and 8**  
 39 **of this 2009 Act first apply to the 2010-2011 school year.**

40 **SECTION 10.** **This 2009 Act takes effect on July 1, 2010.**