

Enrolled
Senate Bill 248

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Education and General Government for Full-Day Kindergarten Implementation Committee)

CHAPTER

AN ACT

Relating to kindergarten; creating new provisions; amending ORS 327.006, 327.077, 327.106, 327.297, 330.101, 336.092, 336.095 and 339.141 and sections 2 and 3, chapter 40, Oregon Laws 2008; and repealing ORS 327.082.

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

SECTION 1. Section 2, chapter 40, Oregon Laws 2008, as amended by section 1, chapter 388, Oregon Laws 2009, is amended to read:

Sec. 2. Section 1, chapter 40, Oregon Laws 2008, applies to the 2007-2008, 2008-2009, 2009-2010, 2010-2011, [and] 2011-2012, **2012-2013, 2013-2014 and 2014-2015** school years.

SECTION 2. Section 3, chapter 40, Oregon Laws 2008, as amended by section 2, chapter 388, Oregon Laws 2009, is amended to read:

Sec. 3. Section 1, chapter 40, Oregon Laws 2008, is repealed on June 30, [2012] **2015**.

SECTION 3. ORS 336.095 is amended to read:

336.095. (1)(a) **A school district that is not a union high school district must offer half-day kindergarten and may choose to offer full-day kindergarten.**

(b) **A public charter school may choose to offer half-day kindergarten or full-day kindergarten.**

(c) **The State Board of Education shall adopt by rule:**

(A) **Standards for half-day kindergarten and full-day kindergarten; and**

(B) **The minimum number of instructional hours required for half-day kindergarten and full-day kindergarten.**

[(1)] (2) [The district school board of every common school district shall] **Every school district that is not a union high school district must** provide kindergarten facilities free of charge for the kindergarten children residing in the district by operating [such] **the** facilities either singly or jointly with other districts or by contracting with public or private providers that conform to standards adopted by rule by the State Board of Education.

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

[(3)] (4) [Kindergartens established under] **Kindergarten that is offered as provided by** subsection (1) of this section shall be funded in the same manner as other [schools] **grades** of the dis-

trict are funded, **except that the aggregate days membership of children in kindergarten shall be calculated as provided by ORS 327.006.**

~~[(4)] (5)~~ *[Kindergartens are]* **Kindergarten** is an integral part of the public school system of this state.

SECTION 4. ORS 327.106 is amended to read:

327.106. (1) Any school district that does not offer education programs in kindergarten through grade 12 *[on and after July 1, 1997,]* shall be considered nonstandard under ORS 327.103. **A school district may satisfy the requirements of this section by offering half-day kindergarten or full-day kindergarten.**

~~[(2)]~~ *This section shall not apply to any school district not required to merge under section 2 (3) or (4), chapter 393, Oregon Laws 1991.*

~~[(3)]~~ (2) Notwithstanding subsection (1) of this section, a school district *[shall not be]* **is not** considered to be nonstandard under ORS 327.103 if: **the school district:**

(a) **Is not required to merge under section 2 (3) or (4), chapter 393, Oregon Laws 1991.**

~~[(a)]~~ (b) **Meets all of the following requirements:**

(A) The school district offered education programs in kindergarten through grade 12 on September 1, 1996;

~~[(b)]~~ (B) After September 1, 1996, a majority of the board of the school district voted not to offer education programs in grades 9 through 12; and

~~[(c)]~~ (C) The school district merges with a unified school district and the merger takes effect under ORS 330.103 within one year after the vote of the board under **this** paragraph *[(b) of this subsection].*

(c) Is a union high school district, as defined in ORS 330.005.

SECTION 5. ORS 339.141 is amended to read:

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

(a) "Public charter school" has the meaning given that term in ORS 338.005.

~~[(b)]~~ "Regular school program" means the regular curriculum provided in the required full-time day sessions in the schools of the district, including public charter schools, for grades 1 through 12 and the school program for kindergarten during the period of approximately nine months each year when the schools of the district or public charter schools are normally in operation and does not include summer sessions or evening sessions.]

(b) "Regular school program" means the regular curriculum that is provided in the schools of the school district, including public charter schools, and that is provided:

(A) As required full-day sessions in grades 1 through 12;

(B) As required half-day sessions in kindergarten or as optional full-day sessions in kindergarten; and

(C) During the hours and months when the schools of the school district or public charter schools are normally in operation, except summer sessions or evening sessions.

(c) "Tuition" means payment for the cost of instruction and does not include fees authorized under ORS 339.155.

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

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

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

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

SECTION 6. The amendments to ORS 327.106, 336.095 and 339.141 by sections 3 to 5 of this 2011 Act first apply to the 2015-2016 school year.

SECTION 7. ORS 327.006, as amended by section 11, chapter 846, Oregon Laws 2007, and section 41, chapter 11, Oregon Laws 2009, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) A pupil is not considered to be a resident pupil under paragraph (a)(A) of this subsection if the pupil is attending school in another school district pursuant to a contract under ORS 339.125 and in the prior year was considered to be a resident pupil in another school district under para-

graph (a)(B) of this subsection. The pupil shall continue to be considered a resident of another school district under paragraph (a)(B) of this subsection.

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

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

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

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

SECTION 8. ORS 327.077, as amended by section 7, chapter 705, Oregon Laws 2009, is amended to read:

327.077. (1) For purposes of this section:

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

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

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

(A) Nine grades is below 252.

[(a)] **(B)** Eight grades is below 224.

[(b)] **(C)** Seven grades is below 196.

[(c)] **(D)** Six grades is below 168.

[(d)] **(E)** Five grades is below 140.

[(e)] **(F)** Four grades is below 112.

[(f)] **(G)** Three grades is below 84.

[(g)] **(H)** Two grades is below 56.

[(h)] **(I)** One grade is below 28.

(b) For purposes of this subsection, kindergarten may be included in the calculation for determining the number of grades at an elementary school only if the kindergarten is full-day kindergarten.

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

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

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

(A) Four grades is below 350.

(B) Three grades is below 267.

(4) An elementary school does not qualify as a remote small elementary school under subsection (2) of this section if it is within eight miles by the nearest traveled road from another elementary school unless there are physiographic conditions that make transportation to another school not feasible.

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

(b) The additional amount = $\{[224] \mathbf{252} - (\text{ADMa} \div (\text{number of grades in the school} \div [eight] \mathbf{nine}))\} \times 0.0045 \times \text{ADMa} \times \text{distance adjustment}$.

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

(b) The additional amount = $\{350 - (\text{ADMa} \div (\text{number of grades in the school} \div \text{four}))\} \times 0.0029 \times \text{ADMa}$.

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

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

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

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

(B) The school qualified as a small high school on July 23, 2009; and

(C) On or after October 23, 1999, and prior to July 23, 2009, the school was not part of a high school that divided or otherwise reorganized into two or more high schools in the same city.

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

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

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

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

(9) The opening of a public charter school shall not disqualify a school as a remote small elementary school under subsection (4) of this section or change the distance adjustment for a school under subsection (7) of this section.

(10)(a) Notwithstanding subsections (3), (6) and (8)(b) and (d) of this section, if two high schools merge and prior to the merger at least one of the high schools qualified as a small high school under this section, the Department of Education shall continue to add an additional amount pursuant to subsection (6) of this section to the ADMw of the school district in which the new merged high school is located that is equal to the higher of:

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

(B) In the case of a high school that remains qualified as a small high school under subsection (3) of this section after a merger, the ADMa of the merged small high school.

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

SECTION 9. ORS 327.297 is amended to read:

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

(a) Early childhood support including establishing, maintaining or expanding quality prekindergarten programs [*and full-day kindergarten programs*];

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

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

(d) Mentoring, teacher retention and professional development;

(e) Remediation, alternative learning and student retention;

(f) Services to at-risk youth;

(g) Programs to improve a student achievement gap between student groups identified by culture, poverty, language and race and other student groups;
(h) Vocational education programs;
(i) Literacy programs;
(j) School library programs; and
(k) Other research-based student improvement strategies approved by the State Board of Education.

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

(b) The department shall review and approve applications based on criteria established by the State Board of Education. In establishing the criteria, the State Board of Education shall consider the recommendations of the Quality Education Commission established under ORS 327.500.

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

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

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

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

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

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

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

(b) The amount of each grant for an education service district = the education service district's ADMw \times (the total amount available for distribution to education service districts as grants in each fiscal year \div the total ADMw of all education service districts that receive a grant).

(c) As used in this subsection, "ADMw" means:

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

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

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

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

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

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

SECTION 10. The amendments to ORS 327.006, 327.077 and 327.297 by sections 7 to 9 of this 2011 Act apply to State School Fund distributions commencing with the 2015-2016 distributions.

SECTION 11. ORS 336.092 is amended to read:

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

- (1) "Kindergarten child" means a child five years of age or whose fifth birthday occurs on or before September 1 or who has been admitted by the district school board under ORS 336.095 [(2)] (3).
- (2) "Kindergarten facilities" includes physical facilities, supplies, equipment and personnel suitable for the education and training of kindergarten children.
- (3) "Physical facilities" includes but is not limited to public school buildings, rented buildings which meet health and safety standards or homes used in school district sponsored programs.

SECTION 12. ORS 330.101 is amended to read:

330.101. (1) Before the proposed change or merger is ordered, the district boundary board shall give notice in the manner provided in ORS 330.400 of the proposed change or merger and the session of the board at which it will be ordered. If no remonstrance petition on the change or merger is submitted requiring an election as provided in subsection (2) of this section, the board shall issue an order that the change or merger shall become effective as provided in ORS 330.103. The remonstrance petition is subject to ORS 332.118. However, the boundary board shall not issue an order until all affected boundary boards have had opportunity to consider the proposed change or merger.

(2) If a remonstrance petition on a proposed change or merger signed by at least five percent or at least 500, whichever is less, of the electors of a school district affected by the proposed change or merger is filed with the district boundary board within 20 days after the date of the order to effect the proposed change or merger, and when all district boundary boards have acted on the change or merger as provided in ORS 330.095 (3), the board shall submit the question of the proposed change or merger to the electors of each affected school district from which a remonstrance petition was filed, with the district boundary board acting as the district elections authority on behalf of the school districts. Separate elections shall be held in sequence in the districts from which remonstrance petitions have been filed, commencing with the least populous district and progressing in order of population to the most populous district. If the majority of votes in each election favor the change or merger, an election shall be held in the next most populous district. The cost of an election on a proposed boundary change or merger shall be prorated between or among the district school boards involved in accordance with ORS 255.305.

(3) If the majority of votes cast in any affected district oppose the change or merger, the change or merger shall be defeated, and the same or a substantially similar change or merger shall not be ordered until 12 months have elapsed from the date of the election at which the change or merger was defeated, unless otherwise required by law. If the vote is favorable in all remonstrating districts, the district boundary board shall declare the change or merger effective as provided in ORS 330.103 and issue an order without further elections.

(4) For any school district merger that is initiated [*under*] **as described in** ORS 327.106 [(3)] (2)(b), no remonstrance petition or election shall be allowed.

(5) When a unified elementary district with an average daily membership of greater than 50 that has, prior to the merger, paid tuition for the majority of its high school students to attend an out-of-state high school merges with a district that provides education in kindergarten and grades 1 through 12, the following shall apply after the merger:

(a) The students who reside in the former unified elementary district shall be authorized to attend the out-of-state high school that the majority of the high school students of the unified elementary district were attending during the 1992-1993 school year;

(b) The merged district shall pay tuition for the students described in paragraph (a) of this subsection but not in an amount greater than the district's average expenditure for high school students; and

(c) The parents of a student who wish the student to attend the out-of-state high school must agree to pay the difference, if any, between what the district is authorized to pay as tuition under paragraph (b) of this subsection and the amount of tuition charged by the out-of-state high school.

SECTION 13. ORS 327.082 is repealed.

SECTION 14. The amendments to ORS 327.006, 327.077, 327.106, 327.297, 330.101, 336.092, 336.095 and 339.141 by sections 3 to 5, 7 to 9, 11 and 12 of this 2011 Act and the repeal of ORS 327.082 by section 13 of this 2011 Act become operative July 1, 2015.

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Robert Taylor, Secretary of Senate

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