

Senate Bill 4

Sponsored by Senators COURTNEY, KRUSE; Senator BATES (Pre-session filed.)

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 ensure that physical education or recess time is available each school day for students in kindergarten through grade 8. Requires school district to ensure that number of students in kindergarten through grade 8 who are engaged in at least 60 minutes of physical education each school day increases each school year.

Encourages school districts to enter into partnerships with parks and recreation districts and with other community organizations. Directs Department of Education to establish annual list that recognizes efforts of schools, school districts and child care facilities that implement exemplary policies related to physical activity and nutrition.

Declares emergency, effective July 1, 2011.

A BILL FOR AN ACT

1
2 Relating to healthy lifestyles for children; creating new provisions; amending ORS 329.498, 336.631
3 and 338.115 and section 9, chapter 839, Oregon Laws 2007, and section 15, chapter 50, Oregon
4 Laws 2008; and declaring an emergency.

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

6 **SECTION 1. (1) A school district shall ensure that physical education or recess time is**
7 **available each school day of the school year for students in kindergarten through grade 8.**

8 **(2) Notwithstanding subsection (1) of this section:**

9 **(a) A student with disabilities shall have suitably adapted physical education or recess**
10 **time incorporated as part of the individualized education program developed for the student**
11 **under ORS 343.151.**

12 **(b) A student who does not have an individualized education program but has chronic**
13 **health problems, other disabling conditions or other special needs that preclude the student**
14 **from participating in physical education or recess time shall have suitably adapted physical**
15 **education or recess time incorporated as part of an individualized health plan developed for**
16 **the student.**

17 **(3)(a) Except as provided in paragraph (b) of this subsection, a school district shall en-**
18 **sure that the number of students of the school district in kindergarten through grade 8 who**
19 **are engaged in at least 60 minutes of physical education each school day increases by at least**
20 **10 percent each school year.**

21 **(b) A school district is not required to satisfy the requirements described in paragraph**
22 **(a) of this subsection if:**

23 **(A) Students in kindergarten through grade 5 participate in physical education for at**
24 **least 150 minutes during each school week; and**

25 **(B) Students in grades 6 through 8 participate in physical education for at least 225**
26 **minutes during each school week.**

27 **SECTION 2. Section 1 of this 2011 Act first applies to the 2011-2012 school year.**

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.

SECTION 3. Section 1 of this 2011 Act is repealed on June 30, 2017.

SECTION 4. Section 9, chapter 839, Oregon Laws 2007, is amended to read:

Sec. 9. (1) [*Section 5 of this 2007 Act and the amendments to ORS 336.631, 338.025 and 338.115 by sections 6 to 8 of this 2007 Act* become] **ORS 329.496 becomes** operative on July 1, 2017.

(2) [*Section 5 of this 2007 Act and the amendments to ORS 336.631, 338.025 and 338.115 by sections 6 to 8 of this 2007 Act first apply*] **ORS 329.496 first applies** to the 2017-2018 school year.

(3) The amendments to ORS 336.631, 338.025 and 338.115 by sections 6 to 8, chapter 839, Oregon Laws 2007, become operative on July 1, 2011.

(4) The amendments to ORS 336.631, 338.025 and 338.115 by sections 6 to 8, chapter 839, Oregon Laws 2007, first apply to the 2011-2012 school year.

SECTION 5. ORS 336.631, as amended by section 6, chapter 839, Oregon Laws 2007, and section 8, chapter 72, Oregon Laws 2010, is amended to read:

336.631. (1) Prior to contracting with or distributing any public funds to a private alternative education program, a district school board shall:

(a) Annually approve the private alternative education program;

(b) Determine that the private alternative education program is registered with the Department of Education; and

(c) Determine that the private alternative education program complies with the requirements of subsection (2) of this section and ORS 336.625 (3)(c).

(2) The following laws apply to private alternative education programs that are registered with the Department of Education under ORS 336.635 in the same manner as the laws apply to school districts and public schools:

(a) Federal law;

(b) ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records checks);

[(c) ORS 329.496 (*physical education*);]

(c) Section 1 of this 2011 Act (physical education);

(d) ORS 337.150, 339.141, 339.147 and 339.155 (tuition and fees);

(e) ORS 659.850, 659.855 and 659.860 (discrimination);

(f) Section 6, chapter 72, Oregon Laws 2010 (advertisement requirements);

(g) Health and safety statutes and rules; and

(h) Any statute, rule or school district policy that is specified in a contract between the school district board and the private alternative education program.

(3) Prior to placement of a student in a private alternative education program, the resident district shall determine whether the proposed placement best serves the student's educational needs and interests and assists the student in achieving the district and state academic standards.

(4) Contracts between a school district and a private alternative education program shall be included in the assessment of effectiveness provided for in ORS 329.085.

SECTION 6. ORS 336.631, as amended by section 6, chapter 839, Oregon Laws 2007, section 8, chapter 72, Oregon Laws 2010, and section 5 of this 2011 Act, is amended to read:

336.631. (1) Prior to contracting with or distributing any public funds to a private alternative education program, a district school board shall:

(a) Annually approve the private alternative education program;

(b) Determine that the private alternative education program is registered with the Department of Education; and

(c) Determine that the private alternative education program complies with the requirements

1 of subsection (2) of this section and ORS 336.625 (3)(c).

2 (2) The following laws apply to private alternative education programs that are registered with
 3 the Department of Education under ORS 336.635 in the same manner as the laws apply to school
 4 districts and public schools:

5 (a) Federal law;

6 (b) ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records checks);

7 [(c) Section 1 of this 2011 Act (physical education);]

8 (c) **ORS 329.496 (physical education);**

9 (d) ORS 337.150, 339.141, 339.147 and 339.155 (tuition and fees);

10 (e) ORS 659.850, 659.855 and 659.860 (discrimination);

11 (f) Section 6, chapter 72, Oregon Laws 2010 (advertisement requirements);

12 (g) Health and safety statutes and rules; and

13 (h) Any statute, rule or school district policy that is specified in a contract between the school
 14 district board and the private alternative education program.

15 (3) Prior to placement of a student in a private alternative education program, the resident
 16 district shall determine whether the proposed placement best serves the student's educational needs
 17 and interests and assists the student in achieving the district and state academic standards.

18 (4) Contracts between a school district and a private alternative education program shall be
 19 included in the assessment of effectiveness provided for in ORS 329.085.

20 **SECTION 7. (1) The amendments to ORS 336.631 by section 6 of this 2011 Act become**
 21 **operative on July 1, 2017.**

22 **(2) The amendments to ORS 336.631 by section 6 of this 2011 Act first apply to the**
 23 **2017-2018 school year.**

24 **SECTION 8.** ORS 338.115, as amended by section 7, chapter 839, Oregon Laws 2007, section 12,
 25 chapter 50, Oregon Laws 2008, section 4, chapter 618, Oregon Laws 2009, and section 3, chapter 53,
 26 Oregon Laws 2010, is amended to read:

27 338.115. (1) Statutes and rules that apply to school district boards, school districts or other
 28 public schools do not apply to public charter schools. However, the following laws do apply to public
 29 charter schools:

30 (a) Federal law;

31 (b) ORS 192.410 to 192.505 (public records law);

32 (c) ORS 192.610 to 192.690 (public meetings law);

33 (d) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);

34 (e) ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records checks);

35 (f) ORS 337.150 (textbooks);

36 (g) ORS 339.141, 339.147 and 339.155 (tuition and fees);

37 (h) ORS 659.850, 659.855 and 659.860 (discrimination);

38 (i) ORS 30.260 to 30.300 (tort claims);

39 (j) Health and safety statutes and rules;

40 (k) Any statute or rule that is listed in the charter;

41 (L) The statewide assessment system developed by the Department of Education for mathemat-
 42 ics, science and English under ORS 329.485 (2);

43 (m) ORS 329.045 (academic content standards and instruction);

44 [(n) ORS 329.496 (physical education);]

45 **(n) Section 1 of this 2011 Act (physical education);**

1 (o) Any statute or rule that establishes requirements for instructional time provided by a school
 2 during each day or during a year;

3 (p) ORS 339.250 (12) (prohibition on infliction of corporal punishment);

4 (q) ORS 339.370, 339.372, 339.388 and 339.400 (reporting of child abuse and training on pre-
 5 vention and identification of child abuse);

6 (r) ORS 329.451 (high school diploma, modified diploma, extended diploma and alternative cer-
 7 tificate);

8 (s) ORS chapter 657 (Employment Department Law);

9 (t) ORS 339.326;

10 (u) Section 1, chapter 53, Oregon Laws 2010 (consideration for educational services); and

11 (v) This chapter.

12 (2) Notwithstanding subsection (1) of this section, a charter may specify that statutes and rules
 13 that apply to school district boards, school districts and other public schools may apply to a public
 14 charter school.

15 (3) If a statute or rule applies to a public charter school, then the terms “school district” and
 16 “public school” include public charter school as those terms are used in that statute or rule.

17 (4) A public charter school may not violate the Establishment Clause of the First Amendment
 18 to the United States Constitution or section 5, Article I of the Oregon Constitution, or be religion
 19 based.

20 (5) A public charter school shall maintain an active enrollment of at least 25 students.

21 (6) A public charter school may sue or be sued as a separate legal entity.

22 (7) The sponsor, members of the governing board of the sponsor acting in their official capacities
 23 and employees of a sponsor acting in their official capacities are immune from civil liability with
 24 respect to all activities related to a public charter school within the scope of their duties or em-
 25 ployment.

26 (8) A public charter school may enter into contracts and may lease facilities and services from
 27 a school district, education service district, state institution of higher education, other governmental
 28 unit or any person or legal entity.

29 (9) A public charter school may not levy taxes or issue bonds under which the public incurs li-
 30 ability.

31 (10) A public charter school may receive and accept gifts, grants and donations from any source
 32 for expenditure to carry out the lawful functions of the school.

33 (11) The school district in which the public charter school is located shall offer a high school
 34 diploma, a modified diploma, an extended diploma or an alternative certificate to any public charter
 35 school student who meets the district’s and state’s standards for a high school diploma, a modified
 36 diploma, an extended diploma or an alternative certificate.

37 (12) A high school diploma, a modified diploma, an extended diploma or an alternative certificate
 38 issued by a public charter school grants to the holder the same rights and privileges as a high
 39 school diploma, a modified diploma, an extended diploma or an alternative certificate issued by a
 40 nonchartered public school.

41 (13) Prior to beginning operation, the public charter school shall show proof of insurance to the
 42 sponsor as specified in the charter.

43 (14) A public charter school may receive services from an education service district in the same
 44 manner as a nonchartered public school in the school district in which the public charter school is
 45 located.

1 **SECTION 9.** ORS 338.115, as amended by section 7, chapter 839, Oregon Laws 2007, section 12,
2 chapter 50, Oregon Laws 2008, section 4, chapter 618, Oregon Laws 2009, section 3, chapter 53,
3 Oregon Laws 2010, and section 8 of this 2011 Act, is amended to read:

4 338.115. (1) Statutes and rules that apply to school district boards, school districts or other
5 public schools do not apply to public charter schools. However, the following laws do apply to public
6 charter schools:

7 (a) Federal law;

8 (b) ORS 192.410 to 192.505 (public records law);

9 (c) ORS 192.610 to 192.690 (public meetings law);

10 (d) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);

11 (e) ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records checks);

12 (f) ORS 337.150 (textbooks);

13 (g) ORS 339.141, 339.147 and 339.155 (tuition and fees);

14 (h) ORS 659.850, 659.855 and 659.860 (discrimination);

15 (i) ORS 30.260 to 30.300 (tort claims);

16 (j) Health and safety statutes and rules;

17 (k) Any statute or rule that is listed in the charter;

18 (L) The statewide assessment system developed by the Department of Education for mathemat-
19 ics, science and English under ORS 329.485 (2);

20 (m) ORS 329.045 (academic content standards and instruction);

21 [n] *Section 1 of this 2011 Act (physical education);*

22 **(n) ORS 329.496 (physical education);**

23 (o) Any statute or rule that establishes requirements for instructional time provided by a school
24 during each day or during a year;

25 (p) ORS 339.250 (12) (prohibition on infliction of corporal punishment);

26 (q) ORS 339.370, 339.372, 339.388 and 339.400 (reporting of child abuse and training on pre-
27 vention and identification of child abuse);

28 (r) ORS 329.451 (high school diploma, modified diploma, extended diploma and alternative cer-
29 tificate);

30 (s) ORS chapter 657 (Employment Department Law);

31 (t) ORS 339.326;

32 (u) Section 1, chapter 53, Oregon Laws 2010 (consideration for educational services); and

33 (v) This chapter.

34 (2) Notwithstanding subsection (1) of this section, a charter may specify that statutes and rules
35 that apply to school district boards, school districts and other public schools may apply to a public
36 charter school.

37 (3) If a statute or rule applies to a public charter school, then the terms “school district” and
38 “public school” include public charter school as those terms are used in that statute or rule.

39 (4) A public charter school may not violate the Establishment Clause of the First Amendment
40 to the United States Constitution or section 5, Article I of the Oregon Constitution, or be religion
41 based.

42 (5) A public charter school shall maintain an active enrollment of at least 25 students.

43 (6) A public charter school may sue or be sued as a separate legal entity.

44 (7) The sponsor, members of the governing board of the sponsor acting in their official capacities
45 and employees of a sponsor acting in their official capacities are immune from civil liability with

1 respect to all activities related to a public charter school within the scope of their duties or em-
2 ployment.

3 (8) A public charter school may enter into contracts and may lease facilities and services from
4 a school district, education service district, state institution of higher education, other governmental
5 unit or any person or legal entity.

6 (9) A public charter school may not levy taxes or issue bonds under which the public incurs li-
7 ability.

8 (10) A public charter school may receive and accept gifts, grants and donations from any source
9 for expenditure to carry out the lawful functions of the school.

10 (11) The school district in which the public charter school is located shall offer a high school
11 diploma, a modified diploma, an extended diploma or an alternative certificate to any public charter
12 school student who meets the district's and state's standards for a high school diploma, a modified
13 diploma, an extended diploma or an alternative certificate.

14 (12) A high school diploma, a modified diploma, an extended diploma or an alternative certificate
15 issued by a public charter school grants to the holder the same rights and privileges as a high
16 school diploma, a modified diploma, an extended diploma or an alternative certificate issued by a
17 nonchartered public school.

18 (13) Prior to beginning operation, the public charter school shall show proof of insurance to the
19 sponsor as specified in the charter.

20 (14) A public charter school may receive services from an education service district in the same
21 manner as a nonchartered public school in the school district in which the public charter school is
22 located.

23 **SECTION 10.** (1) **The amendments to ORS 338.115 by section 9 of this 2011 Act become**
24 **operative on July 1, 2017.**

25 (2) **The amendments to ORS 338.115 by section 9 of this 2011 Act first apply to the**
26 **2017-2018 school year.**

27 **SECTION 11.** ORS 329.498 is amended to read:

28 329.498. The Department of Education shall collect data from school districts on:

29 (1) The number of minutes of physical education **and recess time** that are provided to students
30 in kindergarten through grade 8 each **school day and** school week in each public school within the
31 district;

32 (2) The physical capacity of public schools to provide students in kindergarten through grade 5
33 with at least 150 minutes of physical education during each school week and to provide students in
34 grades 6 through 8 with at least 225 minutes of physical education during each school week; and

35 (3) The additional facilities required by public schools to provide physical education to students
36 as described in subsection (2) of this section.

37 **SECTION 12.** ORS 329.498, as amended by section 11 of this 2011 Act, is amended to read:

38 329.498. The Department of Education shall collect data from school districts on:

39 (1) The number of minutes of physical education [*and recess time*] that are provided to students
40 in kindergarten through grade 8 each [*school day and*] school week in each public school within the
41 district;

42 (2) The physical capacity of public schools to provide students in kindergarten through grade 5
43 with at least 150 minutes of physical education during each school week and to provide students in
44 grades 6 through 8 with at least 225 minutes of physical education during each school week; and

45 (3) The additional facilities required by public schools to provide physical education to students

1 as described in subsection (2) of this section.

2 **SECTION 13.** The amendments to ORS 329.498 by section 12 of this 2011 Act become op-
3 erative on July 1, 2017.

4 **SECTION 14.** For the purpose of promoting a healthy lifestyle for the children of this
5 state:

6 (1) School districts are encouraged to enter into partnerships with parks and recreation
7 districts and with other community organizations to provide opportunities for children to be
8 more physically active and to take advantage of resources available at local gymnasiums and
9 playgrounds.

10 (2) The Department of Education shall establish and publicize an annual list that recog-
11 nizes the efforts of schools, school districts and child care facilities that implement
12 exemplary policies related to physical activity and nutrition.

13 **SECTION 15.** Section 15, chapter 50, Oregon Laws 2008, is amended to read:

14 **Sec. 15.** The amendments to ORS 338.025 and 338.115 by sections 12 and 14, **chapter 50,**
15 **Oregon Laws 2008,** [*of this 2008 Act*] become operative July 1, [2017] **2011,** and first apply to the
16 [2017-2018] **2011-2012** school year.

17 **SECTION 16.** This 2011 Act being necessary for the immediate preservation of the public
18 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect
19 July 1, 2011.
20
