

Enrolled Senate Bill 994

Sponsored by Senator COURTNEY

CHAPTER

AN ACT

Relating to education; creating new provisions; amending ORS 327.006, 329.485, 332.405, 338.025, 338.075, 338.125, 339.115, 339.133, 339.134 and 343.151 and section 12, chapter ___, Oregon Laws 2011 (Enrolled House Bill 3645); repealing section 4, chapter 21, Oregon Laws 2010, sections 1 and 2, chapter 443, Oregon Laws 2011 (Enrolled House Bill 2299), sections 2 and 5, chapter ___, Oregon Laws 2011 (Enrolled House Bill 2301), sections 1, 2, 3, 4, 5 and 6, chapter 461, Oregon Laws 2011 (Enrolled House Bill 3359), section 3, chapter ___, Oregon Laws 2011 (Enrolled House Bill 3362), section 11, chapter ___, Oregon Laws 2011 (Enrolled House Bill 3645), sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15, chapter ___, Oregon Laws 2011 (Enrolled House Bill 3681), and section 19, chapter ___, Oregon Laws 2011 (Enrolled Senate Bill 250); and declaring an emergency.

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

SECTION 1. If House Bill 2960 becomes law, section 19, chapter ___, Oregon Laws 2011 (Enrolled Senate Bill 250) (amending ORS 757.612), is repealed.

SECTION 2. (1) Sections 1 (amending ORS 338.125) and 2, chapter 443, Oregon Laws 2011 (Enrolled House Bill 2299), are repealed.

(2) Sections 2 and 5 (both amending ORS 338.125), chapter ___, Oregon Laws 2011 (Enrolled House Bill 2301), are repealed.

(3) Sections 1, 2 (both amending ORS 339.133), 3, 4, 5 (repealing section 4, chapter 21, Oregon Laws 2010) and 6, chapter 461, Oregon Laws 2011 (Enrolled House Bill 3359), are repealed.

(4) Section 3 (amending ORS 338.125), chapter ___, Oregon Laws 2011 (Enrolled House Bill 3362), is repealed.

(5) Section 11, chapter ___, Oregon Laws 2011 (Enrolled House Bill 3645) (amending ORS 338.075), is repealed.

(6) Sections 1 (amending ORS 339.133), 2, 3, 4 (amending ORS 329.485), 5 (amending ORS 339.115), 6 (amending ORS 339.134), 7, 8 (both amending ORS 327.006), 9, 10 (amending ORS 332.405), 11 (amending ORS 343.151), 12 (amending ORS 339.133), 13, 14 and 15, chapter ___, Oregon Laws 2011 (Enrolled House Bill 3681), are repealed.

SECTION 3. ORS 339.133, as amended by sections 1 and 3, chapter 21, Oregon Laws 2010, is amended to read:

339.133. (1) Except as provided in subsection (3), (4), (5), [or] (7) **or** (8) of this section, children between the ages of 4 and 18 shall be considered resident for school purposes in the school district in which their parents, their guardians or persons in parental relationship to them reside.

(2) Nonemancipated individuals between the ages of 4 and 18 living outside the geographic area of the school district for such reasons as attending college, military service, hospital confinement or employment away from home shall be considered resident in the district in which their parents, their guardians or persons in parental relationship to them reside.

(3) Individuals considered legally emancipated from their parents shall be considered resident in the district in which they actually reside, irrespective of the residence of their parents, their guardians or persons in parental relationship.

(4) Children placed by public or private agencies who are living in licensed, certified or approved substitute care programs shall be considered resident in the school district in which they reside because of placement by a public or private agency.

(5)(a) Notwithstanding subsection (4) of this section, when a juvenile court determines that it is in a child's best interest to continue to attend the school that the child attended prior to placement by a public agency, the child:

(A) Shall be considered resident for school purposes in the school district in which the child resided prior to the placement; and

(B) May continue to attend the school the child attended prior to the placement through the highest grade level of the school.

(b) The public agency that has placed the child shall be responsible for providing the child with transportation to and from school when the need for transportation is due to the placement by the public agency.

(c) Paragraph (b) of this subsection applies only to a public agency for which funds have been designated for the specific purpose of providing a child with transportation to and from school under this subsection.

(6) Persons living temporarily in a school district for the primary purpose of attending a district school may not be considered resident in the district in which they are living temporarily, but shall be considered resident in the district in which they, their parents, their guardians or persons in parental relationship to them maintain residency.

(7) Except as provided in ORS 327.006 (7) and 335.090, persons whose legal residence is not within the district but who attend school in the district with the written consent of the affected district school boards shall be considered to be residents in the district in which the persons attend school for purposes of the receipt by that district of State School Fund moneys for those persons.

(8)(a) Children who are foreign exchange students and who are residing in Oregon in a dormitory operated by a school district are considered to be residents of the school district in which the dormitory is located.

(b) For the purpose of this subsection:

(A) A child may not be considered to be a foreign exchange student for more than one school year.

(B) A child may be considered to be a resident of a school district as provided by this subsection only if, for the 2010-2011 school year, the school district had foreign exchange students who were considered to be residents as provided by this subsection.

(C) The number of children who are considered to be residents as provided by this subsection may not increase from the number that were considered to be residents as provided by this subsection for the 2010-2011 school year.

(c) As used in this subsection, "foreign exchange student" means a student who attends school in Oregon under a cultural exchange program and whose parent, guardian or person in parental relationship resides in another country.

[(8)] (9) For the purposes of this section:

(a) "Person in parental relationship" means an adult who has physical custody of a child or resides in the same household as the child, interacts with the child daily, provides the child with food, clothing, shelter and incidental necessities and provides the child with necessary care, education and discipline. "Person in parental relationship" does not mean a person with a power of attorney

or other written delegation of parental responsibilities if the person does not have other evidence of a parental relationship.

(b) "Substitute care program" means family foster care, family group home care, parole foster care, family shelter care, adolescent shelter care and professional group care.

SECTION 4. ORS 339.133, as amended by sections 1 and 3, chapter 21, Oregon Laws 2010, and sections 3 and 8 of this 2011 Act, is amended to read:

339.133. (1)(a) Except as provided in subsections (2) to [(6)] (5) of this section, children between the ages of 4 and 18 shall be considered resident for school purposes in the school district in which their parents, their guardians or persons in parental relationship to them reside.

(b) Nonemancipated individuals between the ages of 4 and 18 living outside the geographic area of the school district for such reasons as attending college, military service, hospital confinement or employment away from home shall be considered resident in the district in which their parents, their guardians or persons in parental relationship to them reside.

(c) Persons living temporarily in a school district for the primary purpose of attending a district school may not be considered resident in the district in which they are living temporarily, but shall be considered resident in the district in which they, their parents, their guardians or persons in parental relationship to them reside.

(2) Individuals considered legally emancipated from their parents shall be considered resident in the district in which they actually reside, irrespective of the residence of their parents, their guardians or persons in parental relationship.

(3) Children placed by public or private agencies who are living in licensed, certified or approved substitute care programs shall be considered resident in the school district in which they reside because of placement by a public or private agency.

(4)(a) Notwithstanding subsection (3) of this section, when a juvenile court determines that it is in a child's best interest to continue to attend the school that the child attended prior to placement by a public agency, the child:

(A) Shall be considered resident for school purposes in the school district in which the child resided prior to the placement; and

(B) May continue to attend the school the child attended prior to the placement through the highest grade level of the school.

(b) The public agency that has placed the child shall be responsible for providing the child with transportation to and from school when the need for transportation is due to the placement by the public agency.

(c) Paragraph (b) of this subsection applies only to a public agency for which funds have been designated for the specific purpose of providing a child with transportation to and from school under this subsection.

(5) Except as provided in ORS 327.006 (7) and 335.090, persons whose legal residence is not within the district but who attend school in the district are considered residents in the district in which the persons attend school if those persons receive:

(a) Written consent from both of the affected district school boards as provided by policies adopted by the boards; or

(b) Written consent from the district school board for the district in which the school is located as provided by section 9 of this 2011 Act.

[(6)(a) *Children who are foreign exchange students and who are residing in Oregon in a dormitory operated by a school district are considered to be residents of the school district in which the dormitory is located.*]

[(b) *For the purpose of this subsection:*]

[(A) *A child may not be considered to be a foreign exchange student for more than one school year.*]

[(B) *A child may be considered to be a resident of a school district as provided by this subsection only if, for the 2010-2011 school year, the school district had foreign exchange students who were considered to be residents as provided by this subsection.*]

[(C) The number of children who are considered to be residents as provided by this subsection may not increase from the number that were considered to be residents as provided by this subsection for the 2010-2011 school year.]

[(c) As used in this subsection, "foreign exchange student" means a student who attends school in Oregon under a cultural exchange program and whose parent, guardian or person in parental relationship resides in another country.]

[(7)] **(6)** For the purposes of this section:

(a) "Person in parental relationship" means an adult who has physical custody of a child or resides in the same household as the child, interacts with the child daily, provides the child with food, clothing, shelter and incidental necessities and provides the child with necessary care, education and discipline. "Person in parental relationship" does not mean a person with a power of attorney or other written delegation of parental responsibilities if the person does not have other evidence of a parental relationship.

(b) "Substitute care program" means family foster care, family group home care, parole foster care, family shelter care, adolescent shelter care and professional group care.

SECTION 5. The amendments to ORS 339.133 by section 4 of this 2011 Act become operative on July 1, 2013.

SECTION 6. If a school district is the resident school district of foreign exchange students as described in ORS 339.133, the school district shall submit a report to the interim legislative committees on education no later than October 1, 2012. The report required by this section shall include recommendations for funding options for foreign exchange students that may be enacted in lieu of considering the students to be residents of the district as provided by ORS 339.133.

SECTION 7. Section 4, chapter 21, Oregon Laws 2010, is repealed.

SECTION 8. ORS 339.133, as amended by sections 1 and 3, chapter 21, Oregon Laws 2010, and section 3 of this 2011 Act, is amended to read:

339.133. (1)**(a)** Except as provided in *[subsection (3), (4), (5), (7) or (8)]* **subsections (2) to (6)** of this section, children between the ages of 4 and 18 shall be considered resident for school purposes in the school district in which their parents, their guardians or persons in parental relationship to them reside.

[(2)] **(b)** Nonemancipated individuals between the ages of 4 and 18 living outside the geographic area of the school district for such reasons as attending college, military service, hospital confinement or employment away from home shall be considered resident in the district in which their parents, their guardians or persons in parental relationship to them reside.

(c) Persons living temporarily in a school district for the primary purpose of attending a district school may not be considered resident in the district in which they are living temporarily, but shall be considered resident in the district in which they, their parents, their guardians or persons in parental relationship to them reside.

[(3)] **(2)** Individuals considered legally emancipated from their parents shall be considered resident in the district in which they actually reside, irrespective of the residence of their parents, their guardians or persons in parental relationship.

[(4)] **(3)** Children placed by public or private agencies who are living in licensed, certified or approved substitute care programs shall be considered resident in the school district in which they reside because of placement by a public or private agency.

[(5)(a)] **(4)(a)** Notwithstanding subsection *[(4)]* **(3)** of this section, when a juvenile court determines that it is in a child's best interest to continue to attend the school that the child attended prior to placement by a public agency, the child:

(A) Shall be considered resident for school purposes in the school district in which the child resided prior to the placement; and

(B) May continue to attend the school the child attended prior to the placement through the highest grade level of the school.

(b) The public agency that has placed the child shall be responsible for providing the child with transportation to and from school when the need for transportation is due to the placement by the public agency.

(c) Paragraph (b) of this subsection applies only to a public agency for which funds have been designated for the specific purpose of providing a child with transportation to and from school under this subsection.

[(6) Persons living temporarily in a school district for the primary purpose of attending a district school may not be considered resident in the district in which they are living temporarily, but shall be considered resident in the district in which they, their parents, their guardians or persons in parental relationship to them maintain residency.]

[(7)] **(5)** Except as provided in ORS 327.006 (7) and 335.090, persons whose legal residence is not within the district but who attend school in the district *[with the written consent of the affected district school boards shall be considered to be]* **are considered** residents in the district in which the persons attend school *[for purposes of the receipt by that district of State School Fund moneys for those persons.]* **if those persons receive:**

(a) Written consent from both of the affected district school boards as provided by policies adopted by the boards; or

(b) Written consent from the district school board for the district in which the school is located as provided by section 9 of this 2011 Act.

[(8)(a)] **(6)(a)** Children who are foreign exchange students and who are residing in Oregon in a dormitory operated by a school district are considered to be residents of the school district in which the dormitory is located.

(b) For the purpose of this subsection:

(A) A child may not be considered to be a foreign exchange student for more than one school year.

(B) A child may be considered to be a resident of a school district as provided by this subsection only if, for the 2010-2011 school year, the school district had foreign exchange students who were considered to be residents as provided by this subsection.

(C) The number of children who are considered to be residents as provided by this subsection may not increase from the number that were considered to be residents as provided by this subsection for the 2010-2011 school year.

(c) As used in this subsection, "foreign exchange student" means a student who attends school in Oregon under a cultural exchange program and whose parent, guardian or person in parental relationship resides in another country.

[(9)] **(7)** For the purposes of this section:

(a) "Person in parental relationship" means an adult who has physical custody of a child or resides in the same household as the child, interacts with the child daily, provides the child with food, clothing, shelter and incidental necessities and provides the child with necessary care, education and discipline. "Person in parental relationship" does not mean a person with a power of attorney or other written delegation of parental responsibilities if the person does not have other evidence of a parental relationship.

(b) "Substitute care program" means family foster care, family group home care, parole foster care, family shelter care, adolescent shelter care and professional group care.

SECTION 9. (1) For purposes of ORS 339.133 (5)(b), a person whose legal residence is not within a school district but who attends school in the district is considered a resident of the district in which the person attends school if the person receives written consent to attend school from the district school board where the school is located, as provided by this section.

(2)(a) By March 1 of each year, a district school board shall determine whether the board will give consent to persons whose legal residence is not within the school district.

(b) If the district school board will give consent, the board shall establish standards by which consent will be given. The standards must:

(A) Identify the number of persons to whom consent will be given for the school year. The district school board may limit the number of persons to whom consent will be given based on school, grade or a combination of school and grade.

(B) Allow persons who live within the boundaries of the school district the first opportunity to change to a different school in the district if the district school board will be giving consent to attend that school to persons who do not reside within the district.

(3) A person seeking consent as provided by this section must request consent no later than April 1 prior to the beginning of the school year for which consent is being requested. Requests may be submitted before the district school board makes the determination and establishes the standards described in subsection (2) of this section, but may not be considered by the board when the board makes the determination and establishes the standards.

(4)(a) A district school board must give consent to a person who requests consent unless:

(A) The board decides to not give consent to any person as allowed by subsection (2) of this section;

(B) The board decides to limit the number of persons to whom consent will be given and the person was not selected to be given consent based on the selection process described in subsection (5) of this section; or

(C) The board is not required to admit the person, as provided by ORS 339.115 (8).

(b) A district school board may not deny consent or give priority based on race, religion, sex, sexual orientation, ethnicity, national origin, disability, terms of an individualized education program, income level, proficiency in the English language or athletic ability.

(5) If the number of persons seeking consent exceeds the number of persons to whom the district school board has determined will be given consent, the board shall give consent based on an equitable lottery selection process. The process may give priority to persons who have siblings currently enrolled in a school of the school district, but in no event may a sibling be given priority to any open spot in the schools of the school district over any persons who reside within the school district.

(6)(a) Except as provided by paragraphs (b) and (c) of this subsection, a person who receives consent and who is considered a resident of a district as provided by this section shall be considered a resident of the district for all educational purposes. A person who is considered a resident of the district as provided by this section shall continue to be considered a resident of the district until the person:

(A) Graduates from high school;

(B) Is no longer required to be admitted to the schools of the school district under ORS 339.115; or

(C) Enrolls in a school in a different school district.

(b) A school district is not required to provide transportation outside the boundaries of the district to a person who is considered a resident of the district as provided by this section, except that a district:

(A) Must allow persons who are considered a resident of the district as provided by this section to use existing bus routes and transportation services of the district. Transportation provided under this subparagraph is considered approved transportation costs for purposes of ORS 327.013.

(B) May provide a stipend for a person who is a member of a low-income family, as defined in ORS 339.147, in an amount that does not exceed the district's average cost per student for transportation.

(C) Must provide transportation if required by federal law.

(c) After the first year that a person is considered a resident of a district as provided by this section, the district school board may transfer the person to a different school in the district. Any transfers must be made consistent with district policy and do not affect the status of the person as a resident of the district.

(7) A district school board shall provide written notification of the attendance of a person who receives consent as provided by this section to the district school board where the legal residence of the person is located. The written notification required by this subsection must be provided no later than May 1 prior to the beginning of the school year for which consent was given.

(8) Nothing in this section:

(a) Requires a district school board to give consent to siblings if the board determines that consent will not be given to any students for a school year.

(b) Prevents a school district from entering into interagency agreements to provide services to persons who do not reside in the school district or are not considered residents of the school district.

(c) Prevents or otherwise limits a district school board from providing consent to a person who has received consent from the district school board for the school district in which the person resides, as provided by ORS 339.133 (5)(a).

SECTION 10. (1) Section 9 of this 2011 Act and the amendments to ORS 339.133 by section 8 of this 2011 Act become operative on January 1, 2012.

(2) Section 9 of this 2011 Act and the amendments to ORS 339.133 by section 8 of this 2011 Act first apply to persons who seek consent for the 2012-2013 school year.

(3) Nothing in section 9 of this 2011 Act or the amendments to ORS 339.133 by section 8 of this 2011 Act affects the status of a person who was considered a resident as provided by ORS 339.133 (5) prior to the 2012-2013 school year.

SECTION 11. ORS 329.485 is amended to read:

329.485. (1) As used in this section:

(a) "Content-based assessment" means testing of the understanding of a student of a predetermined body of knowledge.

(b) "Criterion-referenced assessment" means testing of the knowledge or ability of a student with respect to some standard.

(c) "Performance-based assessment" means testing of the ability of a student to use knowledge and skills to create a complex or multifaceted product or complete a complex task.

(2)(a) The Department of Education shall implement statewide a valid and reliable assessment system for all students that meets technical adequacy standards. The assessment system shall include criterion-referenced assessments including performance-based assessments, content-based assessments, and other valid methods to measure the academic content standards and to identify students who meet or exceed the standards.

(b) The department shall develop the statewide assessment system in mathematics, science, English, history, geography, economics and civics.

(3) In addition to the assessment system implemented under subsection (2) of this section, the department may make available to school districts and public charter schools an assessment system that uses criterion-referenced assessments including performance-based assessments and content-based assessments to:

(a) Measure a student's progress in achieving the academic content standards for the student's current grade level;

(b) Determine the grade level of the understanding, knowledge or ability of a student, which shall be determined regardless of the actual grade level of the student and may be determined by adapting the assessment during the assessment process as a result of the performance of the student;

(c) Track and provide reports on the progress of a student based on the information provided under paragraphs (a) and (b) of this subsection; and

(d) Provide predictions of anticipated student progress that are based on the information provided under this subsection and not on the current grade level of the student.

(4)(a) School districts and public charter schools shall implement the statewide assessment system in mathematics, science and English. In addition, school districts and public charter schools may implement the statewide assessment system in history, geography, economics and civics.

(b) School districts and public charter schools may implement the assessment system described in subsection (3) of this section.

(5) Each year the resident district shall be accountable for determining the student's progress toward achieving the academic content standards. Progress toward the academic content standards shall be measured in a manner that clearly enables the student and parents to know whether the student is making progress toward meeting or exceeding the academic content standards. In addition, the district shall adopt a grading system based on the local school district board adopted course content of the district's curriculum. The grading system shall clearly enable the student and parents to know how well the student is achieving course requirements.

(6) If a student has not met or has exceeded all of the academic content standards, the school district shall make additional services or alternative educational or public school options available to the student.

(7) If the student to whom additional services or alternative educational options have been made available does not meet or exceed the academic content standards within one year, the school district, with the consent of the parents, shall make an appropriate placement, which may include an alternative education program or the transfer of the student to another public school in the district or to a public school in another district that agrees to accept the student. The district that receives the student shall be entitled to payment. The payment shall consist of:

(a) An amount equal to the district expenses from its local revenues for each student in average daily membership, payable by the resident district in the same year; and

(b) Any state and federal funds the attending district is entitled to receive payable as provided in ORS 339.133 [(2)] (1)(b).

SECTION 12. ORS 339.115 is amended to read:

339.115. (1) Except as provided in ORS 339.141, authorizing tuition for courses not part of the regular school program, the district school board shall admit free of charge to the schools of the district all persons between the ages of 5 and 19 who reside within the school district. A person whose 19th birthday occurs during the school year shall continue to be eligible for a free and appropriate public education for the remainder of the school year. A district school board may admit nonresident persons, determine who is not a resident of the district and fix rates of tuition for nonresidents.

(2)(a) A district must admit an otherwise eligible person who has not yet attained 21 years of age prior to the beginning of the current school year if the person is:

(A) Receiving special education and has not yet received a high school diploma as described in ORS 329.451 (2); or

(B) Receiving special education and has received a modified diploma, an extended diploma or an alternative certificate as described in ORS 329.451.

(b) A district may admit an otherwise eligible person who is not receiving special education and who has not yet attained 21 years of age prior to the beginning of the current school year if the person is shown to be in need of additional education in order to receive a high school diploma.

(3) The obligation to make a free appropriate public education available to individuals with disabilities 18 through 21 years of age who are incarcerated in an adult correctional facility applies only to those individuals who, in their last educational placement prior to their incarceration in the adult correctional facility:

(a) Were identified as being a child with a disability as defined in ORS 343.035; or

(b) Had an individualized education program as described in ORS 343.151.

(4) For purposes of subsection (3) of this section, "adult correctional facility" means:

(a) A local correctional facility as defined in ORS 169.005;

(b) A regional correctional facility as defined in ORS 169.620; or

(c) A Department of Corrections institution as defined in ORS 421.005.

(5) An otherwise eligible person under subsection (2) of this section whose 21st birthday occurs during the school year shall continue to be eligible for a free appropriate public education for the remainder of the school year.

(6) The person may apply to the board of directors of the school district of residence for admission after the 19th birthday as provided in subsection (1) of this section. A person aggrieved by a decision of the local board may appeal to the State Board of Education. The decision of the state board is final and not subject to appeal.

(7) Notwithstanding ORS 339.133 (1)(a), a school district shall not exclude from admission a child located in the district solely because the child does not have a fixed place of residence or solely because the child is not under the supervision of a parent, guardian or person in a parental relationship.

(8) Notwithstanding subsection (1) of this section, a school district:

(a) May for the remaining period of an expulsion deny admission to the regular school to a resident student who is expelled from another school district; and

(b) Shall for at least one calendar year from the date of the expulsion and if the expulsion is for more than one calendar year, may for the remaining period of time deny admission to the regular school program to a student who is under expulsion from another school district for an offense that constitutes a violation of a school district policy adopted pursuant to ORS 339.250 (6).

(9) A child entering the first grade during the fall term shall be considered to be six years of age if the sixth birthday of the child occurs on or before September 1. A child entering kindergarten during the fall term shall be considered to be five years of age if the fifth birthday of the child occurs on or before September 1. However, nothing in this section prevents a district school board from admitting free of charge a child 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, to enter school even though the child has not attained the minimum age requirement but is a resident of the district.

SECTION 13. ORS 339.134 is amended to read:

339.134. (1) Notwithstanding ORS 339.133 [(4)] (3), a child with a disability shall be considered a resident for school purposes in the school district in which the child's parent or guardian resides if:

(a) The child is voluntarily placed outside the child's home by the child's parent or guardian;

(b) The child's parent or guardian retains legal guardianship of the child;

(c) There is a plan for the child to return home;

(d) The placement is within 20 miles by the nearest traveled road from the original school building, unless there are physiographic conditions that make transportation to the original school building not feasible; and

(e) The child's parent or guardian and the school staff can demonstrate that it is in the best interest of the child to continue to attend the school the child was attending prior to the placement. The best interest of the child may be demonstrated by factors, including but not limited to the following:

(A) The child's siblings attend the school;

(B) A change in the child's routine would be detrimental to the child; or

(C) The child has developed and maintained a network of personal contacts, support services and friends and a sense of community within the school.

(2) If a child qualifies under subsection (1) of this section, the child may continue to attend the school the child was attending prior to the placement in the child's resident school district.

(3) Nothing in this section shall affect the ability of school districts to enter into agreements with other school districts for the transportation of students.

SECTION 14. ORS 327.006 is amended to read:

327.006. As used in ORS 327.006 to 327.133, 327.348, 327.355, 327.357, 327.360 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.

(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 **who** attends school in the district with the written consent [*of the affected school district boards*] **received as provided by ORS 339.133 (5)**.

(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 paragraph (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 (5) 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 15. 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.

(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 **who attends school in the district with the written consent of the [affected school district boards] district school board where the school is located as provided by ORS 339.133 (5).**

(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 paragraph (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 (5) 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 16. The amendments to ORS 327.006 by sections 14 and 15 of this 2011 Act first apply to the 2012-2013 school year.

SECTION 17. ORS 332.405 is amended to read:

332.405. (1) The district school board shall provide transportation for pupils or combinations of pupils and other persons to and from school-related activities where required by law or when considered advisable by the board.

(2) The board may furnish board and room for pupils in lieu of transportation when reasonable board and room can be provided at equal or less expense than transportation. The board may also provide board and room in a facility that existed on July 1, 1998, or a replacement facility for that facility, for pupils attending a district school [through an interdistrict agreement] as described in ORS 327.006 (7)(a)(B) or through a power of attorney authorized under ORS 109.056 (2). This subsection does not apply to a pupil who attends a district school through a power of attorney and who is a foreign exchange student enrolled in a school under a cultural exchange program.

(3) The transportation costs or expenses for board and room shall be paid from funds available to the district for that purpose.

(4) The district school board may expend district funds to improve or provide for pedestrian facilities off district property if the board finds that the expenditure reduces transportation costs of the district and enhances the safety of pupils going to and from schools of the district.

SECTION 18. ORS 343.151 is amended to read:

343.151. (1)(a) School districts shall ensure that an individualized education program is developed, reviewed and revised for each child with a disability, as defined in ORS 343.035, pursuant to the rules of the State Board of Education.

(b) If a child has an individualized education program that has been developed, reviewed and revised by another school district and the child becomes a resident of a school district as provided by ORS 339.133 or 339.134 or other law, the school district must implement the individualized education program developed by the other school district until a new individualized education program is developed.

(2) The State Board of Education shall establish by rule the contents of an individualized education program, including transition services, and the procedures for the development, review and revision of an individualized education program. The board shall also adopt by rule standard forms for use in developing an individualized education program.

(3) Each school district shall use the individualized education program forms established by rule under subsection (2) of this section in the development, review and revision of all individualized education programs.

(4) Notwithstanding subsection (3) of this section, a school district may use alternate forms in the development, review and revision of an individualized education program if the school district submits the form to the Department of Education and the department approves the use of the alternate form.

(5) In considering whether to approve an alternate form under subsection (4) of this section, the department shall consider whether the form meets the requirements for the contents of an individualized education program adopted under subsection (2) of this section and whether the form satisfies the intent of subsection (4) of this section to reduce unnecessary or confusing paperwork. The department shall approve or disapprove an alternate form submitted under subsection (4) of this section within 10 days of receiving the alternate form.

SECTION 19. ORS 339.133, as amended by sections 1 and 3, chapter 21, Oregon Laws 2010, and sections 3, 4 and 8 of this 2011 Act, is amended to read:

339.133. (1)(a) Except as provided in subsection (2) to (5) of this section, children between the ages of 4 and 18 shall be considered resident for school purposes in the school district in which their parents, their guardians or persons in parental relationship to them reside.

(b) Nonemancipated individuals between the ages of 4 and 18 living outside the geographic area of the school district for such reasons as attending college, military service, hospital confinement or employment away from home shall be considered resident in the district in which their parents, their guardians or persons in parental relationship to them reside.

(c) Persons living temporarily in a school district for the primary purpose of attending a district school may not be considered resident in the district in which they are living temporarily, but shall be considered resident in the district in which they, their parents, their guardians or persons in parental relationship to them reside.

(2) Individuals considered legally emancipated from their parents shall be considered resident in the district in which they actually reside, irrespective of the residence of their parents, their guardians or persons in parental relationship.

(3) Children placed by public or private agencies who are living in licensed, certified or approved substitute care programs shall be considered resident in the school district in which they reside because of placement by a public or private agency.

(4)(a) Notwithstanding subsection (3) of this section, when a juvenile court determines that it is in a child's best interest to continue to attend the school that the child attended prior to placement by a public agency, the child:

(A) Shall be considered resident for school purposes in the school district in which the child resided prior to the placement; and

(B) May continue to attend the school the child attended prior to the placement through the highest grade level of the school.

(b) The public agency that has placed the child shall be responsible for providing the child with transportation to and from school when the need for transportation is due to the placement by the public agency.

(c) Paragraph (b) of this subsection applies only to a public agency for which funds have been designated for the specific purpose of providing a child with transportation to and from school under this subsection.

(5) Except as provided in ORS 327.006 (7) and 335.090, persons whose legal residence is not within the district but who attend school in the district are considered residents in the district in which the persons attend school if those persons receive receive[:]

[(a)] written consent from both of the affected district school boards as provided by policies adopted by the boards[:; or]

[(b)] Written consent from the district school board for the district in which the school is located as provided by section 9 of this 2011 Act].

(6) For the purposes of this section:

(a) "Person in parental relationship" means an adult who has physical custody of a child or resides in the same household as the child, interacts with the child daily, provides the child with food, clothing, shelter and incidental necessities and provides the child with necessary care, education and discipline. "Person in parental relationship" does not mean a person with a power of attorney or other written delegation of parental responsibilities if the person does not have other evidence of a parental relationship.

(b) "Substitute care program" means family foster care, family group home care, parole foster care, family shelter care, adolescent shelter care and professional group care.

SECTION 20. (1) The amendments to ORS 327.006, 329.485, 332.405, 339.115, 339.134 and 343.151 by sections 11 to 14, 17 and 18 of this 2011 Act become operative on January 1, 2012.

(2) The amendments to ORS 339.133 by section 19 of this 2011 Act become operative on July 1, 2017.

(3) The amendments to ORS 339.133 by section 19 of this 2011 Act first apply to the 2017-2018 school year.

SECTION 21. Section 9 of this 2011 Act is repealed on July 1, 2017.

SECTION 22. (1) Nothing in the amendments to ORS 339.133 by section 19 of this 2011 Act and the repeal of section 9 of this 2011 Act by section 21 of this 2011 Act affects the status of a person who was considered a resident as provided by ORS 339.133 (5)(b) prior to the 2017-2018 school year.

(2) Notwithstanding section 9 of this 2011 Act, a school district is not required to take any action under section 9 of this 2011 Act for the 2017-2018 school year.

SECTION 23. ORS 338.125 is amended to read:

338.125. *[(1) Student enrollment in a public charter school shall be voluntary. All students who reside within the school district where the public charter school is located are eligible for enrollment at a public charter school. If the number of applications from students who reside within the school district exceeds the capacity of a program, class, grade level or building, the public charter school shall select students through an equitable lottery selection process. However, after a public charter school has been in operation for one or more years, the public charter school may give priority for admission to students:]*

[(a) Who were enrolled in the school in the prior year; or]

[(b) Who have siblings who are presently enrolled in the school and who were enrolled in the school in the prior year.]

[(2)(a) If space is available a public charter school may admit students who do not reside in the school district in which the public charter school is located.]

[(b) Notwithstanding paragraph (a) of this subsection, if a public charter school offers any online courses as part of the curriculum of the school, then 50 percent or more of the students who attend the public charter school must reside in the school district in which the public charter school is located.]

[(3) A public charter school may not limit student admission based on race, religion, sex, sexual orientation, ethnicity, national origin, disability, income level, proficiency in the English language or athletic ability, but may limit admission to students within a given age group or grade level.]

(1) Student enrollment in a public charter school is voluntary.

(2)(a) All students who reside in the school district in which the public charter school is located are eligible for enrollment in the public charter school if space is available.

(b) Students who do not reside in the school district in which the public charter school is located are eligible for enrollment in the public charter school if space is available and subject to subsection (4) of this section.

(c) A public charter school may not limit student enrollment based on race, religion, sex, sexual orientation, ethnicity, national origin, disability, the terms of an individualized education program, income level, proficiency in the English language or athletic ability.

(3)(a) Except as provided by paragraph (b) of this subsection, if the number of applications from students who reside in the school district exceeds the capacity of a program,

class, grade level or building, the public charter school shall select students through an equitable lottery selection process.

(b) After a public charter school has been in operation for one or more years, the public charter school may give priority for admission to students who:

(A) Were enrolled in the school in the prior year;

(B) Have siblings who are presently enrolled in the school and who were enrolled in the school in the prior year; or

(C) If the public charter school is a party to a cooperative agreement described in section 2, chapter ___, Oregon Laws 2011 (Enrolled House Bill 3362), reside in the school district that is the sponsor of the public charter school or in a school district that is a party to the cooperative agreement.

(4)(a) A student who wishes to enroll in a virtual public charter school does not need the approval of the school district where the student is a resident before the student enrolls in the virtual public charter school. If a student wishes to enroll in a virtual public charter school, the parent, legal guardian or person in parental relationship with the student must provide the following notices to the school district where the student is a resident:

(A) Intent to enroll the student in a virtual public charter school; and

(B) Enrollment of the student in a virtual public charter school.

(b) Notwithstanding paragraph (a) of this subsection and ORS 339.133, if more than three percent of the students who reside in a school district are enrolled in virtual public charter schools that are not sponsored by the school district, a student who is a resident of the school district must receive approval from the school district before enrolling in a virtual public charter school. A school district is not required to give approval if more than three percent of the students who reside in the school district are enrolled in virtual public charter schools that are not sponsored by the school district.

(c) If the school district does not give approval under paragraph (b) of this subsection, the school district must provide information to the parent, legal guardian or person in parental relationship with the student about the right to appeal the decision to the State Board of Education and other online options available to the student. If an appeal is made to the State Board of Education, the board must issue a decision within 30 days of the submission of the appeal.

(5) Within 10 days of a student's enrollment in a public charter school, the public charter school shall provide written notice of the student's enrollment to the school district in which the public charter school is located if the student does not reside in the school district where the public charter school is located.

(6) Within 10 days of receiving the notice described in subsection (5) of this section, the school district in which the public charter school is located shall provide to the student's parent, legal guardian or person in parental relationship written information about:

(a) The school district's responsibility to identify, locate and evaluate students enrolled in the public charter school to determine which students may be in need of special education and related services as provided by ORS 338.165; and

(b) The methods by which the school district may be contacted to answer questions or provide information related to special education and related services.

(7) When a student described in subsection (5) of this section withdraws from a public charter school for a reason other than graduation from high school, the school district in which the public charter school is located shall:

(a) Provide to the school district in which the student resides written notice that the student has withdrawn.

(b) Provide to the student's parent, legal guardian or person in parental relationship written information about:

(A) The responsibility of the school district in which the student resides to identify, locate and evaluate students who reside in the school district to determine which students may be in need of special education and related services as provided by ORS 338.165; and

(B) The methods by which the school district in which the student resides may be contacted to answer questions or provide information related to special education and related services.

(8)(a) If a student described in subsection (5) of this section enrolls in a public charter school and has an individualized education program, the school district in which the public charter school is located must implement the individualized education program and follow the terms of the individualized education program until a new individualized education program is developed.

(b) If a student described in subsection (5) of this section withdraws from a public charter school and has an individualized education program, the school district in which the student resides must implement the individualized education program and follow the terms of the individualized education program until a new individualized education program is developed.

(9) When a virtual public charter school enrolls a student or a student no longer is enrolled in a virtual public charter school, the virtual public charter school shall provide the written notices described in ORS 338.120 (1)(m) and (n) to the school district where the student is a resident.

[4] (10) A public charter school may conduct fund-raising activities[. *However, a public charter school*] but may not require a student to participate in fund-raising activities as a condition of admission to the public charter school.

SECTION 24. ORS 338.125, as amended by section 23 of this 2011 Act, is amended to read:

338.125. (1) Student enrollment in a public charter school is voluntary.

(2)(a) All students who reside in the school district in which the public charter school is located are eligible for enrollment in the public charter school if space is available.

(b) Students who do not reside in the school district in which the public charter school is located are eligible for enrollment in the public charter school if space is available and subject to subsection (4) of this section.

(c) A public charter school may not limit student enrollment based on race, religion, sex, sexual orientation, ethnicity, national origin, disability, the terms of an individualized education program, income level, proficiency in the English language or athletic ability.

(3)(a) Except as provided by paragraph (b) of this subsection, if the number of applications from students who reside in the school district exceeds the capacity of a program, class, grade level or building, the public charter school shall select students through an equitable lottery selection process.

(b) After a public charter school has been in operation for one or more years, the public charter school may give priority for admission to students who:

(A) Were enrolled in the school in the prior year;

(B) Have siblings who are presently enrolled in the school and who were enrolled in the school in the prior year; or

(C) If the public charter school is a party to a cooperative agreement described in section 2, chapter __, Oregon Laws 2011 (Enrolled House Bill 3362), reside in the school district that is the sponsor of the public charter school or in a school district that is a party to the cooperative agreement.

(4)(a) A student who wishes to enroll in a virtual public charter school does not need the approval of the school district where the student is a resident before the student enrolls in the virtual public charter school. If a student wishes to enroll in a virtual public charter school, the parent, legal guardian or person in parental relationship with the student must provide the following notices to the school district where the student is a resident:

(A) Intent to enroll the student in a virtual public charter school; and

(B) Enrollment of the student in a virtual public charter school.

(b)(A) Notwithstanding paragraph (a) of this subsection and ORS 339.133, if more than three percent of the students who reside in a school district are enrolled in virtual public charter schools that are not sponsored by the school district, a student who is a resident of the school district must receive approval from the school district before enrolling in a virtual public charter school. A school district is not required to give approval if more than three percent of the students who reside in the school district are enrolled in virtual public charter schools that are not sponsored by the school district.

(B) For the purpose of determining whether more than three percent of the students who reside in the school district are enrolled in virtual public charter schools that are not sponsored by the school district, the school district board shall include any students who:

(i) Reside in the school district, regardless of whether the students are considered residents of different school districts as provided by ORS 339.133 (5); and

(ii) Are enrolled in virtual public charter schools that are not sponsored by the school district.

(C) Students who reside in the school district, regardless of whether the students are considered residents of different school districts as provided by ORS 339.133 (5), must receive approval from the school district before enrolling in a virtual public charter school if the limit described in subparagraph (A) of this paragraph has been met.

(c) If the school district does not give approval under paragraph (b) of this subsection, the school district must provide information to the parent, legal guardian or person in parental relationship with the student about the right to appeal the decision to the State Board of Education and other online options available to the student. If an appeal is made to the State Board of Education, the board must issue a decision within 30 days of the submission of the appeal.

(5) Within 10 days of a student's enrollment in a public charter school, the public charter school shall provide written notice of the student's enrollment to the school district in which the public charter school is located if the student does not reside in the school district where the public charter school is located.

(6) Within 10 days of receiving the notice described in subsection (5) of this section, the school district in which the public charter school is located shall provide to the student's parent, legal guardian or person in parental relationship written information about:

(a) The school district's responsibility to identify, locate and evaluate students enrolled in the public charter school to determine which students may be in need of special education and related services as provided by ORS 338.165; and

(b) The methods by which the school district may be contacted to answer questions or provide information related to special education and related services.

(7) When a student described in subsection (5) of this section withdraws from a public charter school for a reason other than graduation from high school, the school district in which the public charter school is located shall:

(a) Provide to the school district in which the student resides written notice that the student has withdrawn.

(b) Provide to the student's parent, legal guardian or person in parental relationship written information about:

(A) The responsibility of the school district in which the student resides to identify, locate and evaluate students who reside in the school district to determine which students may be in need of special education and related services as provided by ORS 338.165; and

(B) The methods by which the school district in which the student resides may be contacted to answer questions or provide information related to special education and related services.

(8)(a) If a student described in subsection (5) of this section enrolls in a public charter school and has an individualized education program, the school district in which the public charter school is located must implement the individualized education program and follow the terms of the individualized education program until a new individualized education program is developed.

(b) If a student described in subsection (5) of this section withdraws from a public charter school and has an individualized education program, the school district in which the student resides must implement the individualized education program and follow the terms of the individualized education program until a new individualized education program is developed.

(9) When a virtual public charter school enrolls a student or a student no longer is enrolled in a virtual public charter school, the virtual public charter school shall provide the written notices described in ORS 338.120 (1)(m) and (n) to the school district where the student is a resident.

(10) A public charter school may conduct fund-raising activities but may not require a student to participate in fund-raising activities as a condition of admission to the public charter school.

SECTION 25. (1) The amendments to ORS 338.125 by section 24 of this 2011 Act become operative on July 1, 2012.

(2) The amendments to ORS 338.125 by section 24 of this 2011 Act first apply to persons who seek consent for the 2012-2013 school year.

SECTION 26. ORS 338.025, as amended by section 4, chapter 53, Oregon Laws 2010, section 3, chapter 72, Oregon Laws 2010, and section 3, chapter ___, Oregon Laws 2011 (Enrolled House Bill 2301), is amended to read:

338.025. (1) The State Board of Education may adopt any rules necessary for the implementation of this chapter. The rules shall follow the intent of this chapter.

(2) Upon application by a public charter school, the State Board of Education may grant a waiver of any provision of this chapter if the waiver promotes the development of programs by providers, enhances the equitable access by underserved families to the public education of their choice, extends the equitable access to public support by all students or permits high quality programs of unusual cost. The State Board of Education may not waive any appeal provision in this chapter or any provision under section 6, chapter 72, Oregon Laws 2010, or ORS 338.115 (1)(a) to (t), **338.120**, 338.125 [(3)] (4) or 338.135 (2)(b).

SECTION 27. ORS 338.025, as amended by section 8, chapter 839, Oregon Laws 2007, section 14, chapter 50, Oregon Laws 2008, section 5, chapter 53, Oregon Laws 2010, section 4, chapter 72, Oregon Laws 2010, and section 4, chapter ___, Oregon Laws 2011 (Enrolled House Bill 2301), is amended to read:

338.025. (1) The State Board of Education may adopt any rules necessary for the implementation of this chapter. The rules shall follow the intent of this chapter.

(2) Upon application by a public charter school, the State Board of Education may grant a waiver of any provision of this chapter if the waiver promotes the development of programs by providers, enhances the equitable access by underserved families to the public education of their choice, extends the equitable access to public support by all students or permits high quality programs of unusual cost. The State Board of Education may not waive any appeal provision in this chapter or any provision under section 6, chapter 72, Oregon Laws 2010, or ORS 338.115 (1)(a) to (u), **338.120**, 338.125 [(3)] (4) or 338.135 (2)(b).

SECTION 28. ORS 338.075, as amended by section 6, chapter ___, Oregon Laws 2011 (Enrolled House Bill 3645), is amended to read:

338.075. (1) If a school district board does not approve a proposal to start a public charter school pursuant to ORS 338.055, the applicant may:

(a) Request that the State Board of Education review the decision of the school district board;
or

(b) Submit a proposal to an institution of higher education.

(2) Upon receipt of a request for review, the State Board of Education:

(a) Shall attempt to mediate a resolution between the applicant and the school district board.

(b) May recommend to the applicant and school district board revisions to the proposal.

(c) If the school district board does not accept the revisions to the proposal and the applicant agrees to the sponsorship, may become the sponsor of the public charter school.

(3) Upon receipt of a request for review, in addition to actions described in subsection (2) of this section and at any time during the review process, the State Board of Education may reject a proposal to start a public charter school if the school fails to meet the requirements of this chapter.

(4) An applicant may seek judicial review of an order of the State Board of Education pursuant to ORS 183.484. If the court finds that the decision of the State Board of Education is not supported by substantial evidence in the record, the court shall enter a judgment directing the State Board of Education to sponsor the public charter school.

(5)(a) An applicant seeking sponsorship by an institution of higher education may submit to the institution of higher education the same proposal that was submitted to the school district board under ORS 338.045 or a proposal that is modified to take into consideration the characteristics of the institution of higher education evaluating the proposal under this subsection.

(b) Upon receipt of a proposal, an institution of higher education *[shall]* **may** evaluate the proposal *[in good faith]*. The institution of higher education shall:

(A) Approve or disapprove the proposal using the criteria described in ORS 338.055 (2)(b) to (h) and approve the proposal only if the institution of higher education may become a sponsor as provided by paragraphs *[(d) and]* (e) **and (f)** of this subsection; or

(B) Disapprove the proposal based on the institution's determination that the proposal does not align with the mission of the institution of higher education.

(c)(A) The following decisions by an institution of higher education are final and not subject to appeal:

(i) Whether to evaluate a proposal for a public charter school; and

(ii) The approval or disapproval of a proposal for a public charter school.

(B) The process by which an institution of higher education makes a decision described in subparagraph (A) of this paragraph is not subject to appeal.

[(c)] **(d)** Within 60 days after receiving a proposal, the institution of higher education must approve the proposal or, if disapproving the proposal, state in writing the reasons for disapproving the proposal.

[(d)] **(e)** An institution of higher education may approve a proposal evaluated under this subsection only if the main campus of the institution of higher education is located within 25 miles of the proposed public charter school, based on the nearest traveled road.

[(e)] **(f)** An institution of higher education may become a sponsor of only one public charter school in this state, regardless of the number of campuses or locations of the institution of higher education.

[(f)] **(g)** If a public charter school has a sponsor that is an institution of higher education and the public charter school enters into a contract with a third-party entity to provide educational services for the public charter school:

(A) A member of the governing body of the public charter school or the governing body of the sponsor may not be an employee of the third-party entity, be a member of the governing board of the third-party entity or be any other representative of the third-party entity;

(B) An employee or a member of the governing board of the third-party entity may not attend an executive session of the sponsor;

(C) An employee of the public charter school may not promote the sale or benefits of private supplemental services or classes offered by the third-party entity; and

(D) The educational services provided by the third-party entity must comply with state standards and requirements, and any provision of the contract with the third-party entity that does not allow for the provision of educational services that comply with state standards and requirements is void.

SECTION 29. ORS 338.075, as amended by section 28 of this 2011 Act, is amended to read:

338.075. (1) If a school district board does not approve a proposal to start a public charter school pursuant to ORS 338.055, the applicant may[:]

[(a)] request that the State Board of Education review the decision of the school district board[:; or]

[(b) Submit a proposal to an institution of higher education].

(2) Upon receipt of a request for review, the State Board of Education:
(a) Shall attempt to mediate a resolution between the applicant and the school district board.
(b) May recommend to the applicant and school district board revisions to the proposal.
(c) If the school district board does not accept the revisions to the proposal and the applicant agrees to the sponsorship, may become the sponsor of the public charter school.

(3) Upon receipt of a request for review, in addition to actions described in subsection (2) of this section and at any time during the review process, the State Board of Education may reject a proposal to start a public charter school if the school fails to meet the requirements of this chapter.

(4) An applicant may seek judicial review of an order of the State Board of Education pursuant to ORS 183.484. If the court finds that the decision of the State Board of Education is not supported by substantial evidence in the record, the court shall enter a judgment directing the State Board of Education to sponsor the public charter school.

[(5)(a) An applicant seeking sponsorship by an institution of higher education may submit to the institution of higher education the same proposal that was submitted to the school district board under ORS 338.045 or a proposal that is modified to take into consideration the characteristics of the institution of higher education evaluating the proposal under this subsection.]

[(b) Upon receipt of a proposal, an institution of higher education may evaluate the proposal. The institution of higher education shall:]

[(A) Approve or disapprove the proposal using the criteria described in ORS 338.055 (2)(b) to (h) and approve the proposal only if the institution of higher education may become a sponsor as provided by paragraphs (e) and (f) of this subsection; or]

[(B) Disapprove the proposal based on the institution's determination that the proposal does not align with the mission of the institution of higher education.]

[(c)(A) The following decisions by an institution of higher education are final and not subject to appeal:]

[(i) Whether to evaluate a proposal for a public charter school; and]

[(ii) The approval or disapproval of a proposal for a public charter school.]

[(B) The process by which an institution of higher education makes a decision described in subparagraph (A) of this paragraph is not subject to appeal.]

[(d) Within 60 days after receiving a proposal, the institution of higher education must approve the proposal or, if disapproving the proposal, state in writing the reasons for disapproving the proposal.]

*[(e) (5)(a) An institution of higher education may [approve a proposal evaluated under this subsection] **sponsor a public charter school** only if:*

(A) The main campus of the institution of higher education is located within 25 miles of the proposed public charter school, based on the nearest traveled road[.]; and

*(B) **The institution of higher education first became a sponsor of the public charter school prior to July 1, 2017.***

*[(f) (b) An institution of higher education may [become a sponsor of] **sponsor** only one public charter school in this state, regardless of the number of campuses or locations of the institution of higher education.*

[(g) (c) If a public charter school has a sponsor that is an institution of higher education and the public charter school enters into a contract with a third-party entity to provide educational services for the public charter school:

(A) A member of the governing body of the public charter school or the governing body of the sponsor may not be an employee of the third-party entity, be a member of the governing board of the third-party entity or be any other representative of the third-party entity;

(B) An employee or a member of the governing board of the third-party entity may not attend an executive session of the sponsor;

(C) An employee of the public charter school may not promote the sale or benefits of private supplemental services or classes offered by the third-party entity; and

(D) The educational services provided by the third-party entity must comply with state standards and requirements, and any provision of the contract with the third-party entity that does not allow for the provision of educational services that comply with state standards and requirements is void.

SECTION 30. Section 12, chapter ___, Oregon Laws 2011 (Enrolled House Bill 3645), is amended to read:

Sec. 12. (1) The amendments to ORS 338.055 and 338.075 by [*sections 10 and 11 of this 2011 Act*] **section 10, chapter ___, Oregon Laws 2011 (Enrolled House Bill 3645), and section 29 of this 2011 Act** become operative on July 1, 2017.

(2) Nothing in the amendments to ORS 338.055 and 338.075 by [*sections 10 and 11 of this 2011 Act*] **section 10, chapter ___, Oregon Laws 2011 (Enrolled House Bill 3645), and section 29 of this 2011 Act** affects the ability of an institution of higher education to continue to sponsor a public charter school if the institution of higher education became the sponsor of the public charter school prior to July 1, 2017.

SECTION 31. (1) **The Task Force on Virtual School Governance is established.**

(2) The task force shall consist of seven members who shall be appointed as follows:

(a) The President of the Senate shall appoint two members from among the members of the Senate.

(b) The Speaker of the House of Representatives shall appoint two members from among the members of the House of Representatives.

(c) The Superintendent of Public Instruction shall appoint one member to represent the Department of Education.

(d) The Governor shall appoint two members who represent virtual education.

(3) The task force shall recommend a governance structure for virtual education that is provided statewide. The recommended governance structure must be based on the findings made by the State Board of Education, as provided by chapter 72, Oregon Laws 2010.

(4) A majority of the voting members of the task force constitutes a quorum for the transaction of business.

(5) Official action by the task force requires the approval of a majority of the voting members of the task force.

(6) The task force shall elect one of its members to serve as chairperson.

(7) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.

(8) The task force shall meet at times and places specified by the call of the chairperson or of a majority of the voting members of the task force.

(9) The task force may adopt rules necessary for the operation of the task force.

(10) The task force shall submit a report, and may include recommendations for legislation, to the interim legislative committees on education no later than October 1, 2011.

(11) The Legislative Administration Committee shall provide staff support to the task force.

(12) Members of the task force who are not members of the Legislative Assembly are not entitled to compensation, but may be reimbursed for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495. Claims for expenses incurred in performing functions of the task force shall be paid out of funds appropriated to the Legislative Administration Committee.

(13) All agencies of state government, as defined in ORS 174.111, are directed to assist the task force in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice as the members of the task force consider necessary to perform their duties.

SECTION 32. Section 31 of this 2011 Act is repealed on the date of the convening of the 2012 regular session of the Legislative Assembly as specified in ORS 171.010.

SECTION 33. This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect July 1, 2011.

Passed by Senate June 28, 2011

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 28, 2011

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Received by Governor:

.....M,....., 2011

Approved:

.....M,....., 2011

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2011

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Kate Brown, Secretary of State