

# House Bill 4014

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Education)

## 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**.

Abolishes District Best Business Practices Advisory Committee and authority to conduct best business practices audits.

Removes requirement that school districts collect data related to physical education and that Department of Education report on data to Legislative Assembly.

Removes requirement that school district boards determine whether school district is in compliance with food standards and report results to Department of Education.

Removes requirement that State Board of Education attempt to mediate resolution between school district board and applicant for public charter school.

Allows school districts to adopt or use textbooks or other instructional materials in place of or in addition to those adopted by State Board of Education without giving prior notice to State Board of Education.

Removes requirement for observations of Arbor Week, History of Oregon Statehood Week and Women in History Week.

Removes requirement that Department of Education report to Legislative Assembly on implementation of courses on family life, human immunodeficiency virus and human sexuality.

Removes requirement that school districts provide instructional materials on explicit phonics.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to education; amending ORS 297.210, 327.008, 336.423, 337.120, 337.141 and 338.075; repeal-  
3 ing ORS 326.131, 326.133, 326.136, 329.498, 329.499, 336.015, 336.023, 336.025, 336.475 and 337.275;  
4 and declaring an emergency.

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

6 **SECTION 1.** ORS 297.210 is amended to read:

7 297.210. (1)(a) The Secretary of State, as State Auditor, shall have the accounts and financial  
8 affairs of state departments, boards, commissions, institutions and state-aided institutions and agen-  
9 cies of the state reviewed or audited as the Secretary of State considers advisable or necessary.

10 (b) The Secretary of State, as State Auditor, may conduct performance audits of school districts  
11 and education service districts. For audits conducted under this paragraph:

12 (A) The Secretary of State shall identify by rule factors and standards by which the secretary  
13 will determine whether to initiate an audit as authorized under this paragraph or to enter into a  
14 contract with the Department of Education to conduct an audit as provided by ORS 327.141.

15 (B) Prior to initiating an audit, the Secretary of State shall:

16 (i) Give notice to the school district or the education service district of the secretary's intent  
17 to initiate the audit; and

18 (ii) Provide the school district or the education service district with the opportunity to provide  
19 to the secretary any information related to the subject of the audit.

20 (C) Following the review of any information provided under subparagraph (B) of this paragraph,  
21 the Secretary of State may:

22 (i) Decline to proceed with the audit; or

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (ii) Cause the audit to be conducted.

2 (D) The Secretary of State may charge a school district or an education service district for a  
 3 portion of the costs incurred for an audit authorized by this paragraph. Amounts charged as pro-  
 4 vided by this subparagraph shall be in lieu of any amounts that may be charged as provided by ORS  
 5 297.230.

6 *[(c) The Secretary of State, as State Auditor, may conduct audits of the business practices of school  
 7 districts and education service districts pursuant to a contract with the Department of Education au-  
 8 thorized by ORS 326.133.]*

9 *[(d)]* (c) The Secretary of State, as State Auditor, may conduct audits of the use of fund transfers  
 10 from the state to counties, including but not limited to transfers of video lottery revenues, state  
 11 highway funds, cigarette tax revenues and Oregon Liquor Control Commission funds.

12 *[(e)]* (d) The Secretary of State may subpoena witnesses, require the production of books and  
 13 papers and rendering of reports in such manner and form as the Secretary of State requires and  
 14 may do all things necessary to secure a full and thorough investigation.

15 *[(f)]* (e) The Secretary of State shall report, in writing, to the Governor. The report shall include  
 16 a copy of the report on each audit.

17 *[(g)]* (f) In addition to the report described in paragraph *[(f)]* (e) of this subsection, the Secretary  
 18 of State shall provide a report to a school district board or the board of directors of an education  
 19 service district following an audit conducted as provided by paragraph (b) of this subsection.

20 (2) The Secretary of State may audit or review any institution or department of the state gov-  
 21 ernment at any time the executive head of the institution or department, for any reason, retires from  
 22 the head's office or position. The secretary need not conduct an audit or review under this sub-  
 23 section if:

24 (a) The institution or department has been the subject of an audit or review of financial controls  
 25 within the six months immediately preceding the retirement of the executive head of the institution  
 26 or department; or

27 (b) The secretary has not received a report within the 12 months immediately preceding the  
 28 retirement of the executive head of the institution or department indicating that the executive head  
 29 of the institution or department was unable or unwilling to follow state law, rules, policies or pro-  
 30 cedures.

31 (3) The Secretary of State shall employ auditors upon such terms and for such compensation as  
 32 the Secretary of State determines are advantageous and advisable.

33 (4) If a person fails to comply with any subpoena issued under subsection (1) of this section, a  
 34 judge of the circuit court of any county, on application of the Secretary of State, shall compel obe-  
 35 dience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena  
 36 issued from the circuit court.

37 **SECTION 2.** ORS 327.008, as operative until June 30, 2012, is amended to read:

38 327.008. (1) There is established a State School Fund in the General Fund. The fund shall consist  
 39 of moneys appropriated by the Legislative Assembly and moneys transferred from the Education  
 40 Stability Fund. The State School Fund is continuously appropriated to the Department of Education  
 41 for the purposes of ORS 327.006 to 327.077, 327.095, 327.099, 327.101, 327.125, 327.137, 327.348,  
 42 327.355, 327.357, 327.360, 336.575, 336.580, 336.635, 342.173, 343.243, 343.533 and 343.961.

43 (2) There shall be apportioned from the State School Fund to each school district a State School  
 44 Fund grant, consisting of the positive amount equal to a general purpose grant and a facility grant  
 45 and a transportation grant and a high cost disabilities grant minus local revenue, computed as pro-

1 vided in ORS 327.011 and 327.013.

2 (3) There shall be apportioned from the State School Fund to each education service district a  
3 State School Fund grant as calculated under ORS 327.019.

4 (4) There shall be apportioned from the State School Fund the amount to be transferred to the  
5 Regional Educational Services Account as calculated under ORS 327.009.

6 (5) All figures used in the determination of the distribution of the State School Fund shall be  
7 estimates for the same year as the distribution occurs, unless otherwise specified.

8 (6) Numbers of students in average daily membership used in the distribution formula shall be  
9 the numbers as of June of the year of distribution.

10 (7) A school district may not use the portion of the State School Fund grant that is attributable  
11 to the facility grant for capital construction costs.

12 (8) The total amount of the State School Fund that is distributed as facility grants may not ex-  
13 ceed \$25 million in any biennium. If the total amount to be distributed as facility grants exceeds this  
14 limitation, the Department of Education shall prorate the amount of funds available for facility  
15 grants among those school districts that qualified for a facility grant.

16 (9) Each fiscal year, the Department of Education shall transfer the amount of \$18 million from  
17 the State School Fund to the High Cost Disabilities Account established in ORS 327.348.

18 (10) Each fiscal year, the Department of Education shall transfer the amount of \$2.5 million from  
19 the State School Fund to the Small School District Supplement Fund established in ORS 327.360.

20 (11) Each fiscal year, the Department of Education may expend up to \$550,000 from the State  
21 School Fund for the contract described in ORS 329.488. The amount distributed to education service  
22 districts from the State School Fund under this section and ORS 327.019 shall be reduced by the  
23 amount expended by the department under this subsection.

24 *[(12) Each biennium, the Department of Education may expend up to \$800,000 from the State School*  
25 *Fund for the administration of ORS 326.133 and 326.136.]*

26 *[(13)]* (12) Each biennium, the Department of Education may expend up to \$350,000 from the  
27 State School Fund to provide administration of and support for the development of talented and  
28 gifted education under ORS 343.404.

29 *[(14)]* (13) Each biennium, the Department of Education may expend up to \$150,000 from the  
30 State School Fund for the administration of a program to increase the number of speech-language  
31 pathologists and speech-language pathology assistants under ORS 348.394 to 348.406.

32 **SECTION 3.** ORS 327.008 is amended to read:

33 327.008. (1) There is established a State School Fund in the General Fund. The fund shall consist  
34 of moneys appropriated by the Legislative Assembly and moneys transferred from the Education  
35 Stability Fund. The State School Fund is continuously appropriated to the Department of Education  
36 for the purposes of ORS 327.006 to 327.077, 327.095, 327.099, 327.101, 327.125, 327.137, 327.348,  
37 336.575, 336.580, 336.635, 342.173, 343.243, 343.533 and 343.961.

38 (2) There shall be apportioned from the State School Fund to each school district a State School  
39 Fund grant, consisting of the positive amount equal to a general purpose grant and a facility grant  
40 and a transportation grant and a high cost disabilities grant minus local revenue, computed as pro-  
41 vided in ORS 327.011 and 327.013.

42 (3) There shall be apportioned from the State School Fund to each education service district a  
43 State School Fund grant as calculated under ORS 327.019.

44 (4) There shall be apportioned from the State School Fund the amount to be transferred to the  
45 Regional Educational Services Account as calculated under ORS 327.009.

1 (5) All figures used in the determination of the distribution of the State School Fund shall be  
 2 estimates for the same year as the distribution occurs, unless otherwise specified.

3 (6) Numbers of students in average daily membership used in the distribution formula shall be  
 4 the numbers as of June of the year of distribution.

5 (7) A school district may not use the portion of the State School Fund grant that is attributable  
 6 to the facility grant for capital construction costs.

7 (8) The total amount of the State School Fund that is distributed as facility grants may not ex-  
 8 ceed \$25 million in any biennium. If the total amount to be distributed as facility grants exceeds this  
 9 limitation, the Department of Education shall prorate the amount of funds available for facility  
 10 grants among those school districts that qualified for a facility grant.

11 (9) Each fiscal year, the Department of Education shall transfer the amount of \$18 million from  
 12 the State School Fund to the High Cost Disabilities Account established in ORS 327.348.

13 (10) Each fiscal year, the Department of Education may expend up to \$550,000 from the State  
 14 School Fund for the contract described in ORS 329.488. The amount distributed to education service  
 15 districts from the State School Fund under this section and ORS 327.019 shall be reduced by the  
 16 amount expended by the department under this subsection.

17 *[(11) Each biennium, the Department of Education may expend up to \$800,000 from the State School*  
 18 *Fund for the administration of ORS 326.133 and 326.136.]*

19 *[(12)]* (11) Each biennium, the Department of Education may expend up to \$350,000 from the  
 20 State School Fund to provide administration of and support for the development of talented and  
 21 gifted education under ORS 343.404.

22 *[(13)]* (12) Each biennium, the Department of Education may expend up to \$150,000 from the  
 23 State School Fund for the administration of a program to increase the number of speech-language  
 24 pathologists and speech-language pathology assistants under ORS 348.394 to 348.406.

25 **SECTION 4.** ORS 336.423 is amended to read:

26 336.423. (1) As used in this section:

27 (a) “Entree” means a food that is generally regarded as being the primary food in a meal and  
 28 includes, but is not limited to, sandwiches, burritos, pasta and pizza.

29 (b) “Snack” means a food that is generally regarded as supplementing a meal and includes, but  
 30 is not limited to, chips, crackers, onion rings, nachos, french fries, doughnuts, cookies, pastries,  
 31 cinnamon rolls and candy.

32 (2) Except as provided in subsection (6) of this section, all food and beverage items sold in a  
 33 public kindergarten through grade 12 school must at a minimum meet the standards required by this  
 34 section.

35 (3) The following shall apply to all food sold in a school during the times described in subsection  
 36 (5)(a) of this section:

37 (a) A snack item may be sold only in a single-serving size and:

38 (A) May not have more than 35 percent of the total calories from fat. This requirement does not  
 39 apply to snack items that are legumes, nuts, nut butters, seeds, eggs, nonfried vegetables and cheese.

40 (B) May not have more than 10 percent of the total calories from saturated fat. This requirement  
 41 does not apply to snack items that are nuts, eggs and cheese.

42 (C) May not contain more than 35 percent sugar by weight. This requirement does not apply  
 43 to fruit and vegetables.

44 (D) May not contain more than 0.5 grams of trans fat per serving.

45 (E) May not contain more than 150 total calories if sold in a school in which the highest grade

1 level in the school is grade 5 or less.

2 (F) May not contain more than 180 total calories if sold in a school in which the highest grade  
3 level in the school is grade 6, 7 or 8.

4 (G) May not contain more than 200 total calories if sold in a school in which the highest grade  
5 level in the school is grade 9, 10, 11 or 12.

6 (b) An entree item that is sold individually:

7 (A) May not contain more than four grams of fat per 100 calories.

8 (B) May not contain more than 450 total calories.

9 (4) The following shall apply to all beverages sold in a school during the times described in  
10 subsection (5)(a) of this section:

11 (a) If the beverage is sold in a school in which the highest grade level in the school is grade 5  
12 or less, the beverage may be only:

13 (A) Water.

14 (B) Fruit or vegetable juice, provided the beverage item is not more than eight ounces, is 100  
15 percent juice with no added sweeteners and contains no more than 120 calories per eight ounces.

16 (C) Milk or a nutritionally equivalent milk alternative, provided the beverage item is not more  
17 than eight ounces, is fat free or low fat and, if flavored, contains no more than 150 calories per eight  
18 ounces.

19 (b) If the beverage is sold in a school in which the highest grade level in the school is grade  
20 6, 7 or 8, the beverage may be only:

21 (A) Water.

22 (B) Fruit or vegetable juice, provided the beverage item is not more than 10 ounces, is 100  
23 percent juice with no added sweeteners and contains no more than 120 calories per eight ounces.

24 (C) Milk or a nutritionally equivalent milk alternative, provided the beverage item is not more  
25 than 10 ounces, is fat free or low fat and, if flavored, contains no more than 150 calories per eight  
26 ounces.

27 (c) If the beverage is sold in a school in which the highest grade level in the school is grade  
28 9, 10, 11 or 12, the beverage may be only:

29 (A) Water.

30 (B) Fruit or vegetable juice, provided the beverage item is not more than 12 ounces, is 100  
31 percent juice with no added sweeteners and contains no more than 120 calories per eight ounces.

32 (C) Milk or a nutritionally equivalent milk alternative, provided the beverage item is not more  
33 than 12 ounces, is fat free or low fat and, if flavored, contains no more than 150 calories per eight  
34 ounces.

35 (D) A no-calorie or low-calorie beverage if the beverage contains no more than 10 calories per  
36 eight ounces.

37 (E) A beverage that is not more than 12 ounces and contains no more than 66 calories per eight  
38 ounces.

39 (5)(a) The standards required by this section apply to food and beverage items sold in a school  
40 at all times during the regular or extended school day when the activities in the school are prima-  
41 rily under the control of the school district board. This includes, but is not limited to, the time be-  
42 fore or after classes are in session and the time when the school is being used for activities such  
43 as clubs, yearbook, band or choir practice, student government, drama rehearsals or child care  
44 programs.

45 (b) The standards required by this section do not apply to food and beverage items sold in a

1 school at times when the school is being used for school-related events or nonschool-related events  
 2 for which parents and other adults are a significant part of an audience or are selling food or  
 3 beverage items before, during or after the event, such as a sporting event or another interscholastic  
 4 activity, a play or a band or choir concert.

5 (6) The standards required by this section do not apply to food and beverage items sold in a  
 6 school as part of the United States Department of Agriculture's National School Lunch Program or  
 7 School Breakfast Program.

8 (7) A school district board may adopt standards that are more restrictive than the standards  
 9 specified by this section.

10 *[(8) Each school year, a school district board shall determine whether the school district is in*  
 11 *compliance with the standards required by this section and report the results of that determination to*  
 12 *the Department of Education. The department may monitor whether school districts are in compliance*  
 13 *with the standards required by this section.]*

14 **SECTION 5.** ORS 338.075 is amended to read:

15 338.075. (1) If a school district board does not approve a proposal to start a public charter  
 16 school pursuant to ORS 338.055, the applicant may:

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

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

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

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

22 *[(b)]* (a) May recommend to the applicant and school district board revisions to the proposal.

23 *[(c)]* (b) If the school district board does not accept the revisions to the proposal and the appli-  
 24 cant agrees to the sponsorship, may become the sponsor of the public charter school.

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

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

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

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

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

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

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

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

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

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

4 (d) Within 60 days after receiving a proposal, the institution of higher education must approve  
5 the proposal or, if disapproving the proposal, state in writing the reasons for disapproving the pro-  
6 posal.

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

10 (f) An institution of higher education may become a sponsor of only one public charter school  
11 in this state, regardless of the number of campuses or locations of the institution of higher educa-  
12 tion.

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

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

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

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

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

26 **SECTION 6.** ORS 338.075, as amended by section 29, chapter 718, Oregon Laws 2011, is  
27 amended to read:

28 338.075. (1) If a school district board does not approve a proposal to start a public charter  
29 school pursuant to ORS 338.055, the applicant may request that the State Board of Education review  
30 the decision of the school district board.

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

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

33 [(b)] (a) May recommend to the applicant and school district board revisions to the proposal.

34 [(c)] (b) If the school district board does not accept the revisions to the proposal and the appli-  
35 cant agrees to the sponsorship, may become the sponsor of the public charter school.

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

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

43 (5)(a) An institution of higher education may sponsor a public charter school only if:

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

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

3 (b) An institution of higher education may sponsor only one public charter school in this state,  
 4 regardless of the number of campuses or locations of the institution of higher education.

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

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

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

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

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

18 **SECTION 7.** ORS 337.141 is amended to read:

19 337.141. *[Upon prior notice to the State Board of Education, the district school board of any school*  
 20 *district may adopt and use textbooks or other instructional materials in place of or in addition to those*  
 21 *adopted by the State Board of Education provided they meet the guidelines and criteria established by*  
 22 *the State Board of Education.]* **The State Board of Education shall adopt:**

23 **(1) A list of textbooks and other instructional materials that may be used by a school**  
 24 **district; and**

25 **(2) Guidelines and criteria for a district school board to select textbooks and other in-**  
 26 **structional materials that are not on the list adopted under subsection (1) of this section.**

27 **SECTION 8.** ORS 337.120 is amended to read:

28 337.120. (1) *[Except as otherwise provided by ORS 337.141, the]* **A** district school board, with the  
 29 assistance of teachers and administrators of the district, shall adopt **a list of** textbooks and other  
 30 instructional materials for each grade and subject *[field]* for which instruction is provided by the  
 31 *[district school board from the approved list]* **school district.** The district school board shall **adopt**  
 32 **the list in compliance with ORS 337.141 and shall** involve parents and citizens in the process.

33 (2) The district school board shall cause the books or **other instructional** materials, according  
 34 to titles, *[so adopted]* **that are included on the list adopted under subsection (1) of this section**  
 35 to be used in its schools at the beginning of the next school year following the state adoption **under**  
 36 **ORS 337.141**, except when, pursuant to rules of the State Board of Education, the district school  
 37 board is authorized by the Superintendent of Public Instruction to postpone *[such]* use for a rea-  
 38 sonable period of time.

39 **SECTION 9.** ORS 326.131, 326.133, 326.136, 329.498, 329.499, 336.015, 336.023, 336.025, 336.475  
 40 and 337.275 are repealed.

41 **SECTION 10.** This 2012 Act being necessary for the immediate preservation of the public  
 42 peace, health and safety, an emergency is declared to exist, and this 2012 Act takes effect  
 43 on its passage.