

Senate Bill 216

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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**.

Alters method by which moneys are distributed to school districts for purpose of paying for costs of education of students in eligible day treatment programs and eligible residential treatment programs.

Declares emergency, effective July 1, 2013.

A BILL FOR AN ACT

1
2 Relating to funding for education of students in treatment programs; creating new provisions;
3 amending ORS 327.008, 329.488, 343.243 and 343.961; and declaring an emergency.

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

5 **SECTION 1.** ORS 327.008, as amended by section 3, chapter 91, Oregon Laws 2012, is amended
6 to read:

7 327.008. (1) There is established a State School Fund in the General Fund. The fund shall consist
8 of moneys appropriated by the Legislative Assembly and moneys transferred from the Education
9 Stability Fund. The State School Fund is continuously appropriated to the Department of Education
10 for the purposes of ORS 327.006 to 327.077, 327.095, 327.099, 327.101, 327.125, 327.137, 327.348,
11 336.575, 336.580, 336.635, 342.173, 343.243, 343.533 and 343.961.

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

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

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

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

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

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

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

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 **(9) Each fiscal year, the Department of Education may expend up to \$22 million from the**
 2 **State School Fund to pay for the costs of educating children in programs under ORS 343.961.**

3 [(9)] **(10)** Each fiscal year, the Department of Education shall transfer the amount of \$18 million
 4 from the State School Fund to the High Cost Disabilities Account established in ORS 327.348.

5 [(10)] **(11)** Each fiscal year, the Department of Education may expend up to \$550,000 from the
 6 State School Fund for the contract described in ORS 329.488. The amount distributed to education
 7 service districts from the State School Fund under this section and ORS 327.019 shall be reduced
 8 by the amount expended by the department under this subsection.

9 [(11)] **(12)** Each biennium, the Department of Education may expend up to \$350,000 from the
 10 State School Fund to provide administration of and support for the development of talented and
 11 gifted education under ORS 343.404.

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

15 **SECTION 2.** ORS 343.243 is amended to read:

16 343.243. (1) Each school year, the Department of Education shall receive an amount, as calcu-
 17 lated under this section, from the State School Fund to pay the costs of educating children in pro-
 18 grams under ORS 343.261[, 343.961] and 346.010.

19 (2) To meet the requirements of ORS 343.261, the department shall receive from the State School
 20 Fund an amount that is equal to the product of the following:

21 (a) The average net operating expenditure per student of all school districts during the preced-
 22 ing school year; and

23 (b) The number of slots available for students in the hospital programs under ORS 343.261, as
 24 determined by the department for the school year.

25 [(3) *To meet the requirements of ORS 343.961, the department shall receive from the State School*
 26 *Fund an amount that is equal to the product of the following:*]

27 [(a) *The average net operating expenditure per student of all school districts during the preceding*
 28 *school year; and]*

29 [(b) *The number of slots available for all students in eligible day treatment programs and eligible*
 30 *residential treatment programs under ORS 343.961 for the school year, as determined by the Depart-*
 31 *ment of Education based on information received from the Department of Human Services, the Oregon*
 32 *Health Authority, the Oregon Youth Authority and eligible day treatment programs and eligible resi-*
 33 *dential treatment programs.]*

34 [(4)] **(3)** To meet the requirements of ORS 346.010, the Department of Education shall receive
 35 from the State School Fund an amount that is equal to the product of the following:

36 (a) The average net operating expenditure per student of all school districts during the preced-
 37 ing school year; and

38 (b) The resident average daily membership of students enrolled in a program under ORS 346.010
 39 for one-half of the school day or more, exclusive of preschool children covered by ORS 343.533.

40 [(5)] **(4)** The children covered by this section shall be enumerated in the average daily member-
 41 ship of the district providing the instruction but the district may not accrue credit for days' at-
 42 tendance of such children for the purpose of distributing state school funds.

43 [(6)] **(5)** The liability of a district shall not exceed the amount established under this section
 44 even if the child is otherwise subject to ORS 336.575 and 336.580.

45 [(7)] **(6)** The department shall credit amounts received from the State School Fund under this

1 section to the appropriate subaccount in the Special Education Account.

2 **SECTION 3.** ORS 343.961 is amended to read:

3 343.961. (1) As used in this section:

4 (a) "Day treatment program" means a public or private program that provides treatment of
5 children with a mental illness, an emotional disturbance or another mental health issue.

6 (b) "Eligible day treatment program" means a day treatment program with which the Oregon
7 Health Authority contracts for long term care or treatment. "Eligible day treatment program" does
8 not include residential treatment programs or programs that provide care or treatment to juveniles
9 who are in detention facilities.

10 (c) "Eligible residential treatment program" means a residential treatment program with which
11 the Oregon Health Authority, the Department of Human Services or the Oregon Youth Authority
12 contracts for long term care or treatment. "Eligible residential treatment program" does not include
13 psychiatric day treatment programs or programs that provide care or treatment to juveniles who
14 are in detention facilities.

15 (d) "Residential treatment program" means a public or private residential program that provides
16 treatment of children with a mental illness, an emotional disturbance or another mental health issue.

17 (e) "Student" means a child who is placed in an eligible day treatment program or eligible res-
18 idential treatment program by a public or private entity or by the child's parent.

19 (2)(a) The Department of Education shall be responsible for payment of the costs of education
20 of students in eligible day treatment programs and eligible residential treatment programs by con-
21 tracting with the school district in which the eligible day treatment program or eligible residential
22 treatment program is located. The costs of education do not include transportation, care, treatment
23 or medical expenses.

24 **(b) The department shall pay the costs for education of students in eligible day treatment**
25 **programs and eligible residential treatment programs by distributing moneys to the school**
26 **districts with which the department has contracts as described in paragraph (a) of this sub-**
27 **section. The amount distributed to a school district = (total amount available from the State**
28 **School Fund for treatment programs divided by the total utilization rate count for all pro-**
29 **gram providers) x the utilization rate count for an individual program provider.**

30 **(c) For the purposes of the calculation described in paragraph (b) of this subsection:**

31 **(A) The total amount distributed from the State School Fund for treatment programs is**
32 **the maximum amount as provided by ORS 327.008 (9), minus any amounts retained by the**
33 **department for emergencies as described in paragraph (d) of this subsection.**

34 **(B) The total utilization rate count shall be determined by the department pursuant to**
35 **rules adopted by the State Board of Education based on information received from the**
36 **Oregon Health Authority, the Department of Human Services, the Oregon Youth Authority**
37 **and eligible day treatment programs and eligible residential treatment programs.**

38 **(d) For the purpose of paragraph (c)(A) of this subsection:**

39 **(A) The amounts retained annually for emergencies may not exceed five percent of the**
40 **maximum amount available for treatment programs as provided by ORS 327.008 (9).**

41 **(B) The department may expend moneys for emergencies related to eligible day treat-**
42 **ment programs and eligible residential treatment programs in compliance with rules adopted**
43 **by the State Board of Education.**

44 **(C) The department may retain moneys for emergencies from year to year, but the total**
45 **amount of moneys retained for emergencies may not exceed the total amount described in**

1 **subparagraph (A) of this paragraph for the previous fiscal year.**

2 (3)(a) The school district in which an eligible day treatment program or eligible residential
3 treatment program is located is responsible for providing the education of a student, including the
4 identification, location and evaluation of the student for the purpose of determining the student's
5 eligibility to receive special education and related services.

6 (b) A school district that is responsible for providing an education under this subsection may
7 provide the education:

8 (A) Directly or through another school district or an education service district; and

9 (B) In the facilities of an eligible day treatment program or eligible residential treatment pro-
10 gram, the facilities of a school district or the facilities of an education service district.

11 (c) When a student is no longer in an eligible day treatment program or eligible residential
12 treatment program, the responsibilities imposed by this subsection terminate and become the re-
13 sponsibilities of the school district where the student is a resident, as determined under ORS 339.133
14 and 339.134.

15 (4) A school district may request the Department of Education to combine several eligible day
16 treatment programs or eligible residential treatment programs into one contract with another school
17 district or an education service district.

18 (5) The Oregon Health Authority, the Department of Human Services or the Oregon Youth Au-
19 thority shall give the school district providing the education at an eligible day treatment program
20 or an eligible residential treatment program 14 days' notice, to the extent practicable, before a
21 student is dismissed from the program.

22 (6) The Department of Education may make advances to school districts responsible for provid-
23 ing an education to students under this section from funds appropriated for that purpose based on
24 the estimated agreed cost of educating the students per school year. Advances equal to 25 percent
25 of the estimated cost may be made on September 1, December 1 and March 1 of the current year.
26 The balance may be paid whenever the full determination of cost is made.

27 (7) School districts that provide the education described in this section on a year-round plan
28 may apply for 25 percent of the funds appropriated for that purpose on July 1, October 1, January
29 1, and 15 percent on April 1. The balance may be paid whenever the full determination of cost is
30 made.

31 (8) In addition to the payment methods described in this section, the Department of Education
32 may:

33 (a) Negotiate interagency agreements to pay for the cost of education in day treatment programs
34 and residential treatment programs operated under the auspices of the State Board of Higher Edu-
35 cation; and

36 (b) Negotiate intergovernmental agreements to pay for the cost of education in day treatment
37 programs and residential treatment programs operated under the auspices of the Oregon Health and
38 Science University Board of Directors.

39 **SECTION 4. The amendments to ORS 327.008, 343.243 and 343.961 by sections 1 to 3 of this**
40 **2013 Act apply to State School Fund distributions commencing with the 2013-2014 distrib-**
41 **utions.**

42 **SECTION 5.** ORS 329.488 is amended to read:

43 329.488. (1) The Department of Education shall contract with a nonprofit entity to administer a
44 nationally normed assessment, in collaboration with the department, to all students in grade 10 who
45 are enrolled in a public school. The purpose of the assessment is to predict the success of students

1 on, and provide practice for students taking, college entrance exams.

2 (2) The department shall base the selection of the contractor under subsection (1) of this section
 3 on all of the following criteria:

4 (a) The contractor must be able to provide to the department statewide data containing the re-
 5 sults of the assessment;

6 (b) The contractor shall provide an assessment that:

7 (A) Identifies students with high potential to excel in advanced placement (AP) or other honors
 8 courses based on a research-based correlation of scores on the grade 10 assessment to advanced
 9 placement examinations;

10 (B) Examines students in mathematics, reading and writing; and

11 (C) Provides results that can be used by Oregon's higher education institutions to recruit stu-
 12 dents to attend college;

13 (c) The contractor must be able to supply schools with an item-by-item analysis of student per-
 14 formance on the assessment; and

15 (d) The contractor must be able to make available to each student taking the assessment a free
 16 career assessment and online exploration of colleges and career opportunities.

17 (3)(a) In lieu of using the contractor selected by the department under subsection (1) of this
 18 section, a school district may apply to the department for a waiver to allow the district to enter into
 19 a contract with a different nonprofit entity for the purpose of administering a nationally normed
 20 assessment to all students in grade 10 who are enrolled in the public schools operated by the dis-
 21 trict. The department shall grant the waiver if:

22 (A) The district had entered into a contract with the entity for the 2007-2008 school year to
 23 administer a grade 10 assessment;

24 (B) The entity, in coordination with the district, administered a grade 10 assessment during the
 25 2007-2008 school year;

26 (C) For the most recent school year in which the entity administered a grade 10 assessment, the
 27 entity met the criteria set forth in subsection (2) of this section as in effect for the school year in
 28 which the entity administered the assessment; and

29 (D) The entity plans to meet the criteria set forth in subsection (2) of this section as in effect
 30 for the school year for which the school district seeks a waiver.

31 (b) A waiver granted by the department under this subsection:

32 (A) Is valid for one school year; and

33 (B) May be renewed each school year.

34 (c) The department shall reimburse a school district for the cost of assessments allowed under
 35 this subsection from funds available to the department under ORS 327.008 [(10)] (11).

36 (4) Notwithstanding subsections (1) and (3) of this section:

37 (a) The department may, under rules adopted by the State Board of Education, waive the as-
 38 sessment for specific groups of students; and

39 (b) Upon request from a student who is enrolled in a public school operated by a school district
 40 or the parent or guardian of the student, the school district shall waive the assessment for the stu-
 41 dent.

42 **SECTION 6. This 2013 Act being necessary for the immediate preservation of the public**
 43 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
 44 **July 1, 2013.**