

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2748**

1 On page 1 of the printed bill, line 3, after “339.115” delete the rest of the  
2 line and insert “, 339.133 and 339.141; and prescribing an effective date”.

3 Delete lines 5 through 31 and delete pages 2 through 6 and insert:

4 **“SECTION 1.** ORS 339.115 is amended to read:

5 “339.115. (1) Except as provided in ORS 339.141, authorizing tuition for  
6 courses not part of the regular school program, the district school board  
7 shall admit free of charge to the schools of the district all persons between  
8 the ages of 5 and 19 who reside within the school district. A person whose  
9 19th birthday occurs during the school year shall continue to be eligible for  
10 a free and appropriate public education for the remainder of the school year.  
11 A district school board may admit nonresident persons, determine who is not  
12 a resident of the district and fix rates of tuition for [*nonresidents*] **persons**  
13 **who are not residents of this state.**

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

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

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

21 “(b) A district may admit an otherwise eligible person who is not receiv-  
22 ing special education and who has not yet attained 21 years of age prior to

1 the beginning of the current school year if the person is shown to be in need  
2 of additional education in order to receive a high school diploma.

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

8 “(a) Were identified as being a child with a disability as defined in ORS  
9 343.035; or

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

11 “(4) For purposes of subsection (3) of this section, ‘adult correctional fa-  
12 cility’ means:

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

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

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

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

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

25 “(7) Notwithstanding ORS 339.133 (1)(a), a school district shall not ex-  
26 clude from admission a child located in the district solely because the child  
27 does not have a fixed place of residence or solely because the child is not  
28 under the supervision of a parent, guardian or person in a parental re-  
29 lationship.

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

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

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

10 “(9) A child entering the first grade during the fall term shall be consid-  
11 ered to be six years of age if the sixth birthday of the child occurs on or  
12 before September 1. A child entering kindergarten during the fall term shall  
13 be considered to be five years of age if the fifth birthday of the child occurs  
14 on or before September 1. However, nothing in this section prevents a dis-  
15 trict school board from admitting free of charge a child whose needs for  
16 cognitive, social and physical development would best be met in the school  
17 program, as defined by policies of the district school board, to enter school  
18 even though the child has not attained the minimum age requirement but is  
19 a resident of the district.

20 **“SECTION 2.** ORS 327.006 is amended to read:

21 “327.006. As used in ORS 327.006 to 327.133, 327.348 and 327.731:

22 “(1) ‘Aggregate days membership’ means the sum of days present and ab-  
23 sent, according to the rules of the State Board of Education, of all resident  
24 pupils when school is actually in session during a certain period. The ag-  
25 gregate days membership of kindergarten pupils shall be calculated on the  
26 basis of a half-day program.

27 “(2)(a) ‘Approved transportation costs’ means those costs as defined by  
28 rule of the State Board of Education and is limited to those costs attribut-  
29 able to transporting or room and board provided in lieu of transporting:

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

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

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

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

8 “(E) Students who require payment of room and board in lieu of trans-  
9 portation;

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

13 “(G) Students participating in school-sponsored field trips that are exten-  
14 sions of classroom learning experiences.

15 “(b) ‘Approved transportation costs’ does not include the cost of con-  
16 structing boarding school facilities.

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

25 “(4) ‘Consumer Price Index’ means the Consumer Price Index for All Ur-  
26 ban Consumers of the Portland, Oregon, Metropolitan Statistical Area, as  
27 compiled by the United States Department of Labor, Bureau of Labor Sta-  
28 tistics.

29 “(5) ‘Kindergarten’ means a kindergarten program that conforms to the  
30 standards and rules adopted by the State Board of Education.

1 “(6) ‘Net operating expenditures’ means the sum of expenditures of a  
2 school district in kindergarten through grade 12 for administration, instruc-  
3 tion, attendance and health services, operation of plant, maintenance of  
4 plant, fixed charges and tuition for resident students attending in another  
5 [district] **state**, as determined in accordance with the rules of the State  
6 Board of Education, but net operating expenditures does not include trans-  
7 portation, food service, student body activities, community services, capital  
8 outlay, debt service or expenses incurred for nonresident students.

9 “(7)(a) ‘Resident pupil’ means any pupil:

10 “(A) Whose legal school residence is within the boundaries of a school  
11 district reporting the pupil, if the district is legally responsible for the edu-  
12 cation of the pupil, *[except that ‘resident pupil’ does not include a pupil who*  
13 *pays tuition or for whom the parent pays tuition or for whom the district does*  
14 *not pay]* **the district does not receive tuition for the pupil, and, if ap-**  
15 **plicable, the district pays** tuition for placement outside the [district]  
16 **state**; or

17 “(B) Whose legal residence is not within the boundaries of the district  
18 reporting the pupil but who attends school in the district with the written  
19 consent of the district school board where the school is located as provided  
20 by ORS 339.133 (5).

21 “(b) A pupil is not considered to be a resident pupil under paragraph  
22 (a)(A) of this subsection if the pupil is attending school in another school  
23 district pursuant to a contract under ORS 339.125 and in the prior year was  
24 considered to be a resident pupil in another school district under paragraph  
25 (a)(B) of this subsection. The pupil shall continue to be considered a resident  
26 of another school district under paragraph (a)(B) of this subsection.

27 “(c) A pupil is not considered to be a resident pupil under paragraph  
28 (a)(B) of this subsection if the pupil is attending school in a school district  
29 pursuant to ORS 339.133 (5) and in the prior year was considered to be a  
30 resident pupil under paragraph (a)(A) of this subsection because the pupil

1 was attending school in another school district pursuant to a contract under  
2 ORS 339.125. The pupil shall continue to be considered a resident pupil under  
3 paragraph (a)(A) of this subsection.

4 “(d) ‘Resident pupil’ includes a pupil admitted to a school district under  
5 ORS 339.115 (7).

6 “(8) ‘Standard school’ means a school meeting the standards set by the  
7 rules of the State Board of Education.

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

10 **“SECTION 3.** ORS 327.006, as amended by section 7, chapter 704, Oregon  
11 Laws 2011, is amended to read:

12 “327.006. As used in ORS 327.006 to 327.133, 327.348 and 327.731:

13 “(1) ‘Aggregate days membership’ means the sum of days present and ab-  
14 sent, according to the rules of the State Board of Education, of all resident  
15 pupils when school is actually in session during a certain period. The ag-  
16 gregate days membership of kindergarten pupils shall be calculated on the  
17 basis of a half-day program for half-day kindergarten and on the basis of a  
18 full-day program for full-day kindergarten.

19 “(2)(a) ‘Approved transportation costs’ means those costs as defined by  
20 rule of the State Board of Education and is limited to those costs attribut-  
21 able to transporting or room and board provided in lieu of transporting:

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

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

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

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

30 “(E) Students who require payment of room and board in lieu of trans-

1 portation;

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

5 “(G) Students participating in school-sponsored field trips that are exten-  
6 sions of classroom learning experiences.

7 “(b) ‘Approved transportation costs’ does not include the cost of con-  
8 structing boarding school facilities.

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

17 “(4) ‘Consumer Price Index’ means the Consumer Price Index for All Ur-  
18 ban Consumers of the Portland, Oregon, Metropolitan Statistical Area, as  
19 compiled by the United States Department of Labor, Bureau of Labor Sta-  
20 tistics.

21 “(5) ‘Kindergarten’ means a kindergarten program that conforms to the  
22 standards and rules adopted by the State Board of Education.

23 “(6) ‘Net operating expenditures’ means the sum of expenditures of a  
24 school district in kindergarten through grade 12 for administration, instruc-  
25 tion, attendance and health services, operation of plant, maintenance of  
26 plant, fixed charges and tuition for resident students attending in another  
27 [*district*] **state**, as determined in accordance with the rules of the State  
28 Board of Education, but net operating expenditures does not include trans-  
29 portation, food service, student body activities, community services, capital  
30 outlay, debt service or expenses incurred for nonresident students.

1 “(7)(a) ‘Resident pupil’ means any pupil:

2 “(A) Whose legal school residence is within the boundaries of a school  
3 district reporting the pupil, if the district is legally responsible for the edu-  
4 cation of the pupil, [*except that ‘resident pupil’ does not include a pupil who*  
5 *pays tuition or for whom the parent pays tuition or for whom the district does*  
6 *not pay*] **the district does not receive tuition for the pupil, and, if ap-**  
7 **plicable, the district pays** tuition for placement outside the [*district*]  
8 **state; or**

9 “(B) Whose legal residence is not within the boundaries of the district  
10 reporting the pupil but who attends school in the district with the written  
11 consent of the district school board where the school is located as provided  
12 by ORS 339.133 (5).

13 “(b) A pupil is not considered to be a resident pupil under paragraph  
14 (a)(A) of this subsection if the pupil is attending school in another school  
15 district pursuant to a contract under ORS 339.125 and in the prior year was  
16 considered to be a resident pupil in another school district under paragraph  
17 (a)(B) of this subsection. The pupil shall continue to be considered a resident  
18 of another school district under paragraph (a)(B) of this subsection.

19 “(c) A pupil is not considered to be a resident pupil under paragraph  
20 (a)(B) of this subsection if the pupil is attending school in a school district  
21 pursuant to ORS 339.133 (5) and in the prior year was considered to be a  
22 resident pupil under paragraph (a)(A) of this subsection because the pupil  
23 was attending school in another school district pursuant to a contract under  
24 ORS 339.125. The pupil shall continue to be considered a resident pupil under  
25 paragraph (a)(A) of this subsection.

26 “(d) ‘Resident pupil’ includes a pupil admitted to a school district under  
27 ORS 339.115 (7).

28 “(8) ‘Standard school’ means a school meeting the standards set by the  
29 rules of the State Board of Education.

30 “(9) ‘Tax’ and ‘taxes’ includes all taxes on property, excluding exempt



1 bonded indebtedness, as those terms are defined in ORS 310.140.

2 **“SECTION 4.** ORS 335.090 is amended to read:

3 “335.090. (1) The high school education of all children of school age resi-  
4 dent within a school district that does not operate a high school or that is  
5 not a component part of a union high school district shall be the responsi-  
6 bility of the district.

7 “(2) The district shall pay the tuition of all pupils resident within the  
8 district who are qualified to attend and are attending a standard public high  
9 school [*either within or*] outside the state.

10 “(3) The district shall provide for transportation to the nearest standard  
11 public high school which pupils may attend. Reasonable board and room  
12 may be furnished instead of transportation if desired. If the district arranges  
13 for the attendance of pupils at a standard public high school other than the  
14 nearest one pupils may attend, then the district shall provide for transpor-  
15 tation to the standard public high school which the pupils are attending.

16 “(4) The estimated cost of tuition and transportation or board and room  
17 instead of transportation shall be included in and be a part of the budget  
18 and shall be levied as provided in ORS 335.095.

19 **“SECTION 5.** ORS 339.141 is amended to read:

20 “339.141. (1) For the purposes of this section:

21 “(a) ‘Public charter school’ has the meaning given that term in ORS  
22 338.005.

23 “(b) ‘Regular school program’ means the regular curriculum provided in  
24 the required full-time day sessions in the schools of the district, including  
25 public charter schools, for grades 1 through 12 and the school program for  
26 kindergarten during the period of approximately nine months each year when  
27 the schools of the district or public charter schools are normally in operation  
28 and does not include summer sessions or evening sessions.

29 “(c) ‘Tuition’ means payment for the cost of instruction and does not in-  
30 clude fees authorized under ORS 339.155.

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

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

9 “(a) [No] Tuition [shall] **may not** be charged to any [resident] pupil reg-  
10 ularly enrolled in the regular school program for special instruction received  
11 at any time in connection [therewith] **with the regular school program,**  
12 **unless the pupil is not a resident of this state.**

13 “(b) No program, class or course of study for which tuition is charged,  
14 except courses of study beyond the 12th grade, shall be eligible for re-  
15 imbursement from state funds.

16 **“SECTION 6.** ORS 339.141, as amended by section 5, chapter 704, Oregon  
17 Laws 2011, is amended to read:

18 “339.141. (1) For the purposes of this section:

19 “(a) ‘Public charter school’ has the meaning given that term in ORS  
20 338.005.

21 “(b) ‘Regular school program’ means the regular curriculum that is pro-  
22 vided in the schools of the school district, including public charter schools,  
23 and that is provided:

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

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

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

30 “(c) ‘Tuition’ means payment for the cost of instruction and does not in-

1 clude fees authorized under ORS 339.155.

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

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

10 “(a) [No] Tuition [shall] **may not** be charged to any [resident] pupil reg-  
11 ularly enrolled in the regular school program for special instruction received  
12 at any time in connection [therewith] **with the regular school program,**  
13 **unless the pupil is not a resident of this state.**

14 “(b) No program, class or course of study for which tuition is charged,  
15 except courses of study beyond the 12th grade, shall be eligible for re-  
16 imbursement from state funds.

17 **“SECTION 7.** ORS 339.133, as amended by sections 4 and 19, chapter 718,  
18 Oregon Laws 2011, is amended to read:

19 “339.133. (1)(a) Except as provided in subsections (2) to (5) of this section,  
20 children between the ages of 4 and 18 shall be considered resident for school  
21 purposes in the school district in which their parents, their guardians or  
22 persons in parental relationship to them reside.

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

28 “(c) Persons living temporarily in a school district for the primary pur-  
29 pose of attending a district school may not be considered resident in the  
30 district in which they are living temporarily, but shall be considered resident

1 in the district in which they, their parents, their guardians or persons in  
2 parental relationship to them reside.

3 “(2) Individuals considered legally emancipated from their parents shall  
4 be considered resident in the district in which they actually reside, irre-  
5 spective of the residence of their parents, their guardians or persons in par-  
6 ental relationship.

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

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

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

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

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

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

25 “(5) Except as provided in ORS 327.006 (7) and 335.090, persons whose le-  
26 gal residence is not within the district but who attend school in the district  
27 are considered residents in the district in which the persons attend school  
28 if those persons:

29 “(a) Receive written consent from both of the affected district school  
30 boards as provided by policies adopted by the boards[.]; **or**

1       **“(b) Are residents of this state who:**

2       **“(A) Paid tuition to attend school in the district in the 2016-2017**  
3 **school year; or**

4       **“(B) Are siblings of persons who paid tuition to attend school in the**  
5 **district in the 2016-2017 school year.**

6       “(6) For the purposes of this section:

7       “(a) ‘Person in parental relationship’ means an adult who has physical  
8 custody of a child or resides in the same household as the child, interacts  
9 with the child daily, provides the child with food, clothing, shelter and in-  
10 cidental necessities and provides the child with necessary care, education  
11 and discipline. ‘Person in parental relationship’ does not mean a person with  
12 a power of attorney or other written delegation of parental responsibilities  
13 if the person does not have other evidence of a parental relationship.

14       “(b) ‘Substitute care program’ means family foster care, family group  
15 home care, parole foster care, family shelter care, adolescent shelter care and  
16 professional group care.

17       **“SECTION 8. The amendments to ORS 327.006, 335.090, 339.115,**  
18 **339.133 and 339.141 by sections 1 to 7 of this 2013 Act first apply to the**  
19 **2017-2018 school year.**

20       **“SECTION 9. This 2013 Act takes effect on July 1, 2017.”.**

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