

**PROPOSED AMENDMENTS TO
HOUSE BILL 2748**

1 On page 1 of the printed bill, line 3, delete “declaring an emergency” and
2 insert “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. The amendments to ORS 327.006, 335.090, 339.115 and**
18 **339.141 by sections 1 to 6 of this 2013 Act first apply to the 2014-2015**
19 **school year.**

20 **“SECTION 8. (1) Notwithstanding section 7 of this 2013 Act, if a**
21 **nonresident student paid tuition to attend a school in a school district**
22 **during the 2013-2014 school year, the school district board for the**
23 **school district may continue to charge the student tuition for attend-**
24 **ing the schools of the school district. A school district that is allowed**
25 **to charge tuition as provided by this subsection:**

26 **“(a) May not charge tuition for any student who did not pay tuition**
27 **for the 2013-2014 school year; and**

28 **“(b) May not charge tuition as provided by this subsection for the**
29 **2017-2018 school year or any subsequent school year.**

30 **“(2) The provisions of this section apply only to nonresident stu-**

1 **dents who are residents of this state.**

2 **“SECTION 9. Section 8 of this 2013 Act is repealed on June 30, 2017.**

3 **“SECTION 10. This 2013 Act takes effect July 1, 2014.”.**

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